

Rules

RULE

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School Administrators
C Minimum Number of Instructional School Days (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 741, *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). R.S. 17:154.1 changed the minimum number of instructional days in the school year from 175 to 177, keeping the existing total school calendar of 182 days. The legislation switched two days generally used for professional development, planning or emergencies to instructional days. The changes in State Board of Elementary and Secondary Education policy are required as a result of enacted state legislation.

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

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended, LR 27:695 (May 2001), LR 27:815 (June 2001), LR 28:2322 (November 2002).

Minimum Session/Instructional Day

1.009.16 Each school system shall adopt a calendar for a minimum session of 182 days, of which at least 177 days shall be scheduled to provide the required instructional time.

Refer to R.S. 17:154.1

Effective with the 2001-02 school year, the length of the school year shall consist of 182 days of which no fewer than 177 days, or the equivalent, shall be used to provide instruction to students; two days shall be for staff development; the remaining days may be used for emergencies and/or other instructional activities.

If a daily schedule must be abbreviated, the schedule must be abbreviated in such a manner to ensure that all classes are taught during the partial day.

Each school system may include in its calendar a provision for dismissal of senior students prior to the end of the school year. This provision is not to exceed 10 days of instructional time.

Each school system may authorize some or all of its schools to modify the total number of instructional minutes per day and instructional days per year provided that 63,720 minutes of instructional time per year are met.

General election day shall be designated by each school system as a holiday every four years for the presidential election.

1.009.18 Each instance of a school system's not meeting the minimum number of 177 days of required instructional time or the equivalent (63,720 minutes per year) shall be examined by the State Department of Education (SDE) and reported by the Department/System to the State Board of Elementary and Secondary Education (SBESE).

Operations Policies

1.010.02 Each school system shall have policies and procedures that address, but are not limited to, the following items:

- setting the number of school days, length of the school day, and other necessary guidelines for the operation of the schools;
- providing special educational and related services to exceptional students in accordance with the Individualized Education Program (IEP) for no fewer than 177 days or the equivalent during the normal 182-day school cycle.

Length of School Day Requirements

2.037.12 The minimum instructional day for a full-day kindergarten program shall be 360 minutes.

Each school system may authorize some or all of its schools to modify the total number of instructional minutes per day and instructional days per year provided that 63,720 minutes of instructional time per year are met.

Refer to R.S. 17:154.1.

2.037.13 For grades K-12, the minimum school day shall include 360 minutes of instructional time, exclusive of recess, lunch, and planning periods.

Each school system may authorize some or all of its schools to modify the total number of instructional minutes per day and instructional days per year provided that 63,720 minutes of instructional time per year are met.

Local systems have the option to make the determination regarding the length of the school day for high school seniors/

Refer to R.S. 17:154.1.

Extended School Year Program for Eligible Exceptional Students

1.119.00 School systems shall provide eligible exceptional students special educational and related services in excess of 177 school days, or the equivalent during the normal 182 day school cycle when stated in the Individualized Education Program (IEP).

Extended School Year Program for Eligible Exceptional Students

2.119.00 Extended school year programs shall be provided to eligible exceptional students when stated in the Individualized Education Program (IEP).

2.119.01 The determination concerning the need or lack of need for an educational program beyond 177 school days, or the equivalent, during the normal 182 day school cycle made by the participants in an Individualized Education Program

(IEP) meeting shall be reviewed annually to ascertain any changes in the student's needs.

2.119.02 The Individualized Education Program shall include special educational and related services in excess of 177 school days or the equivalent during the normal 182 day school cycle when the multi-source data indicate that the student's exceptionally is of such severity that, without instruction in excess of 182 days, a significant loss of educational skills shall occur.

2.119.03 The type and length of the extended program shall be determined on an individual basis.

A program ranging from 182 up to 240 school days shall be available, when appropriate.

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Executive Director

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RULE

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School
Administrators C Policy for Louisiana's Public Education
Accountability System (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted an amendment to Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). 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 clearly explain and refine the existing policy as follows: 1) State assessments administered to students with disabilities.

**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 27:694 (May 2001); LR 27:695 (May 2001); LR 27:815 (June 2001), LR 28:2323 (November 2002).

**The Louisiana School and District Accountability System
School Performance Scores**

2.006.03 A School Performance Score (SPS) shall be calculated for each school. This score shall range from 0-100 and beyond, with a score of 100 indicating a school has reached the 10-Year Goal and a score of 150 indicating a school has reached the 20-Year Goal. The lowest score that a given school can receive for each individual indicator index and/or for the SPS as a whole is "0".

For the first accountability cycle, the baseline SPS shall be calculated using CRT and NRT scores from spring 1999 and the prior year's attendance and dropout data. The Growth SPS shall be calculated using CRT and NRT scores from spring 2001 and the prior year's attendance and dropout data.

During the fall of 2001 for K-8 schools, each school shall receive **two** School Performance Scores as follows:

- a Growth SPS will be calculated using 2001 English language arts/Math LEAP 21 test scores, 2001 Iowa test scores, and 2000 attendance and dropout data.
- a new Baseline SPS will be calculated using the average of the 1999-2000 and 2000-2001 English language arts/Math/Science/Social Studies LEAP 21 test scores, the average of the 1999-2000 and 2000-2001 Iowa test scores and the average of the 1999 and 2000 attendance and dropout data.

The Growth SPS shall be used to determine Growth Labels and to calculate rewards. The new Baseline shall be used to determine Performance Labels and to calculate the next cycle's Growth Target. The higher SPS (Growth or Baseline) shall be used to determine movement in Corrective Actions. (See Standard 2.006.09)

Beginning the second cycle, every year of student data shall be used as part of a school's SPS. Calculations of the SPS shall use the following:

- an average of the most recent two year's test data, and
- attendance and dropout rates from the two years prior to the last year of test data used.

For schools entering accountability after 1999, one year's data shall be used for schools formed in mid-cycle years and two year's data for other schools. Only spring administration test data shall be used in the School Performance Score.

A baseline School Performance Score shall be calculated in Spring 1999 for Grades K-8.

During the summer of 1999 for K-8 schools, each school shall receive two School Performance Scores as follows:

- a score for regular education students, including gifted, talented, and Section 504 students.
- a score including regular education students AND students with disabilities eligible to participate in the CRT and/or NRT tests.

For the purpose of determining Academically Unacceptable Schools, during the summer of 1999 for K-8 schools, the School Performance Score that includes only regular education students shall be used.

Formula for Calculating an SPS [K-6]

The SPS for a sample school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example,
 $[(66.0 * 60\%) + (75.0 * 30\%) + (50.0 * 10\%)] = 67.1$

Indicator	Index Value	Weight	Indicator Score
CRT	66.0	60%	39.6
NRT	75.0	30%	22.5
Attendance	50.0	10%	5.0
Dropout	N/A	0%	0
			SPS = 67.1

Criterion	
Referenced Tests (CRT) Index Calculations [K-8]	
A school's CRT Index score equals the sum of the student totals divided by the number of students eligible to participate in state assessments. For the CRT Index, each student who scores within one of the following five levels shall receive the number of points indicated.	
Advanced =	200 points
Proficient =	150 points
Basic =	100 points
Approaching Basic =	50 points
Unsatisfactory =	0 points

Formula for Calculating a CRT Index for a School [K-8]	
1. Calculate the total number of points by multiplying the number of students at each Performance level times the points for those respective performance levels, for all content areas.	
2. Divide by the total number of students eligible to be tested times the number of content area tests.	
3. Zero shall be the lowest CRT Index score reported for accountability calculations.	

Option I students: those students failing the 8 th grade LEAP 21 that have been	
<ul style="list-style-type: none"> retained on the 8th grade campus must retake all parts of the 8th Grade LEAP 21 	
If, during spring testing, a repeating fourth grade student or Option I 8 th grade student receives a score of Approaching Basic or above on a LEAP 21 test of mathematics, English language arts, science or social studies for which he/she received a score of Unsatisfactory the previous spring, the retaining school shall receive 50 incentive points per subject in its accountability index. A student may earn a maximum of 200 incentive points for his/her school. (No incentive points will be awarded for passing parts of tests in the summer school of the year they first failed in spring testing.)	

Transition Years [K-8]										
To accommodate the phase-in of the Social Studies and Science components of the CRT for Elementary and Secondary Accountability Cycles, the State Department of Education shall use following LEAP Test components when calculating the School Performance Scores (SPS) for K-8:										
Timelines/ School Years			LEAP-CRT Index Components							
Cycle	Baseline SPS Data	Growth SPS Data	Grade							
			4				8			
			ELA	Math	Science	Social Studies	ELA	Math	Science	Social Studies
1	1998-1999	2000-2001	✓	✓			✓	✓		
2	1999-2000 & 2000-2001	2001-2002 & 2002-2003	✓	✓	✓	✓	✓	✓	✓	✓
3	2001-2002 & 2002-2003	2003-2004 & 2004-2005	✓	✓	✓	✓	✓	✓	✓	✓

Norm-Referenced Tests (NRT) Index Calculations [K-8]	
For the NRT Index, standard scores shall be used for computing the SPS. Index scores for each student shall be calculated, scores totaled, and then averaged together to get a school's NRT Index score.	

NRT Goals and Equivalent Standard Scores					
Composite Standard Scores Equivalent to Louisiana's 10- and 20-Year goals, by Grade Level *					
Grade					
Goals	Percentile Rank	3	5	6	7
10-Year Goal	55th	187	219	231	243
20-Year Goal	75th	199	236	251	266

NRT Formulas Relating Student Standard Scores to NRT Index [K-8]	
Where the 10-year and 20-year goals are the 55th and 75th percentile ranks, respectively, and where SS = a student's standard score, then the index for that student is calculated as follows:	
Grade 3:	Index 3 rd grade = (4.167 * SS) - 679.2 SS = (Index 3rd grade + 679.2)/4.167
Grade 5:	Index 5 th grade = (2.941 * SS) - 544.1 SS = (Index 5th grade + 544.1)/2.941
Grade 6:	Index 6 th grade = (2.500 * SS) - 477.5 SS = (Index 6th grade + 477.5)/2.500
Grade 7:	Index 7 th grade = (2.174*SS) - 428.3 SS = (Index 7th grade + 428.3)/2.174

Formula for Calculating a School's NRT Index [K-8]	
1. Calculate the index for each student, using the grade-appropriate formula relating the Standard Score to NRT Index. (NOTE: For accountability purposes, a student not taking the test and not exempted will be assigned a zero NRT index.)	
2. Sum the total number of NRT Index points for all grades in the school.	
3. Divide the sum of the NRT Index points by the total number of students eligible to be tested plus the number of students not exempted.	
4. Zero shall be the lowest NRT Index score reported for School Performance Score calculations.	

Attendance Index Calculations [K-8]	
An Attendance Index score for each school shall be calculated. The initial year's index shall be calculated from the prior year's attendance rates. Subsequent years' indexes shall be calculated using the prior two years' average attendance rates as compared to the State's goals.	

Attendance Goals		
	10-Year Goal	20-Year Goal
Grades K-8	95%	98%
Attendance Index Formula		
Grades K-8 Indicator (ATT K-8) = (16.667 * ATT) - 1483.4		
Where ATT is the attendance percentage, the Index Formula uses the definition of attendance established by the Louisiana Department of Education.		

Lowest Attendance Index Score	
Zero shall be the lowest Attendance Index score reported for accountability calculations.	

Dropout Index Calculations	
A Dropout Index score for each school shall be calculated. The initial year's index shall be calculated from the prior year's dropout rates. Subsequent years' indices shall be calculated using the prior two years' average dropout rates as compared to the State's goals.	

Dropout Goals		
	10-Year Goal	20-Year Goal
Grades 7 & 8	4%	2%

The national definition of <i>dropout</i> shall be adhered to, but in certain instances the Louisiana Department of Education shall calculate an "Adjusted Dropout Rate" for accountability purposes.

Dropout Index Formulas

Non-Dropout Rate (NDO) = 100 - Dropout Rate (DO)
(expressed as a percentage)

Grades 7 & 8 Dropout Index (7-8) = Indicator (DO Gr 7-8) =
(25 * NDO) - 2300.0
NDO = (Indicator DO Gr 7-8 + 2300.0) /25

Lowest Dropout Index Score

Zero shall be the lowest Dropout Index score reported for accountability calculations.

School Performance Scores for 9-12

A School Performance Score (SPS) shall be calculated for each high school. This score shall range from 0-100 and beyond, with a score of 100 indicating that a school has reached the 10-Year Goal and a score of 150 indicating that a school has reached the 20-Year Goal. The lowest score that a given high school can receive for each individual indicator index and/or for the SPS as a whole is "0."

Every year of student data shall be used as part of a high school's SPS. The school's initial SPS shall be calculated using the most recent year's NRT and CRT test data and the prior year's attendance and dropout rates. Subsequent calculations of the SPS shall use the most recent two years' test data, attendance and dropout rates from the two years prior to the last year of test data used.

Transition Years [9-12]

To accommodate the phase-in of the grades 10 and 11 GEE 21 criterion-referenced tests, the Department shall use the following indicators:

Timelines/School Years			Indicators Included				
Cycle	Baseline SPS Data	SPS Data	Grade 9 NRT	Grade 10 CRT	Grade 11 CRT	Attendance	Dropout
1	2000-01	2002-03 ¹	3	3		3*	3*
2	2001-02 & 2002-03 (avg.)	2003-04 & 2004-05 (avg.)	3	3	3	3*	3*
3	2003-04 & 2004-05 (avg.)	2005-06 & 2006-07 (avg.)	3	3	3	3*	3*

*Indicates use of prior year data for these indexes.

¹The SPS at the beginning of cycle 2 shall be calculated using the average of the 2002 and 2003 NRT scores, the average of the 2002 and 2003 CRT scores, and the average of the 2001 and 2002 attendance and dropout data. The SPS for the beginning of cycle 2 shall be compared to the 2001 baseline SPS for determining growth.

Transition Years [Combination Schools]

Combination Schools are schools that contain a 10th and/or 11th grade and that also contain a 4th and/or 8th grade.

To accommodate the phase-in of Social Studies and Science components of the CRT tests for Secondary Accountability Cycles, the Department shall use the following LEAP Test components when calculating the SPS for combination schools.

Cycle 1 Baseline SPS for Combination Schools	Cycle 2 SPS for Combination Schools
K-8 portion of school: 2 years averaged (2000 and 2001) of all CRT data	K-8 portion of school: 2 years averaged (2002 and 2003) of all CRT data.
9-12 portion of school: 1 year baseline data (2001) without grade 11 CRT	9-12 portion of school: 2 years averaged (2002 and 2003) of all CRT data.

Formula for Calculating an SPS - Accountability Cycle 1 (2001) for 9-12 and Combination Schools.

During the first accountability cycle, the SPS for a sample school shall be calculated by multiplying the index values for each indicator by the weight given to the indicator and adding the total scores. The formula is
SPS = (.60 * Grade 10 CRT Adjusted Achievement Index) +
(.30 * NRT Adjusted Achievement Index) + (.05 * Dropout Index)
+ (.05 Attendance Index)

All intermediate results and the final result shall be rounded to the nearest tenth.

The following is an example of how this calculation shall be made:
[(.60 * 66.0) + (.30 * 75.0) + (.05 * 50.0) + (.05 * 87.5)] = 69.0.

Indicator	Index Value	Weight	Indicator Score
CRT-Grade 10	66.0	60%	39.6
NRT	75.0	30%	22.5
Attendance Index	50.0	5%	2.5
Dropout Index	87.5	5%	4.4
SPS			69.0

Formula for Calculating an SPS - Accountability Cycle 2 (2003 and beyond) for 9-12 and Combination Schools.

During the second accountability cycle, the SPS for a sample school shall be calculated by multiplying the index values for each indicator by the weight given to the indicator and adding the total scores. The formula is

SPS = (.30 * Grade 10 CRT Adjusted Achievement Index) +
(.30 * Grade 11 CRT Adjusted Achievement Index) + (.30 * NRT Index)
+ (.05 * Dropout Index) + (.05 Attendance Index)

In this example,

[(.30 * 66.0) + (.30 * 60.0) + (.30 * 75.0) + (.05 * 50.0) + (.05 * 87.5)] = 67.2.

Indicator	Index Value	Weight	Indicator Score
CRT-Grade 10	66.0	30%	19.8
CRT-Grade 11	60.0	30%	18.0
NRT	75.0	30%	22.5
Attendance Index	50.0	5%	2.5
Dropout Index	87.5	5%	4.4
SPS			67.2

Norm-Referenced Tests (NRT) Index Calculations [9-12]

For the NRT Index, standard scores shall be used for computing the SPS. Index scores for each student shall be calculated, scores totaled, and then averaged together to get a high school's NRT Index score.

NRT Goals and Equivalent Standard Scores for Grade 9

Goal	Percentile Rank	Grade 9 Composite Standard Score
10-Year Goal	55 th	263
20-Year Goal	75 th	287

NRT Formulas Relating Student Standard Scores to NRT Index [9-12]

If the 10-Year and 20-Year Goals are the 55th and 75th percentile ranks respectively and if the SS = a student's standard score, the index for a grade 9 student is calculated as follows:

$$\text{Index } 9^{\text{th}} \text{ grade} = (2.083 * \text{SS}) - 447.8$$

$$\text{SS} = (\text{Index } 9^{\text{th}} \text{ grade} + 447.8) / 2.083$$

Option II students: those students failing the 8th grade LEAP 21 that have been:

- retained and placed on the high school campus
- must take the 9th grade NRT and
- must retake only the part of the 8th grade LEAP 21 they originally failed (English language arts or mathematics).

If, during spring testing, a student receives a score of Approaching Basic or above on a LEAP 21 test of mathematics or English language arts for which he/she received a score of Unsatisfactory the previous spring, the high school shall receive incentive points in its accountability index. For the 2000-2001 school year, a student may earn a maximum of 100 incentive points in his/her school's accountability index. Beginning cycle 2 (2001-

2002), a student may earn a maximum of 50 incentive points for his/her school. (See High Stakes Testing Policy.)

Only with the exception of grade 8 Option II students, all Louisiana students in grades three through eleven will participate in only one of the following state assessments on an annual basis:

- LEAP 21 or,
- GEE 21 or,
- Iowa On-Level or,
- LEAP Alternate Assessment B (LAA-B) or,
- LEAP Alternate Assessment (LAA).

Criterion-Referenced Tests (CRT) Index Calculations [9-12]
 A high school's CRT Index score at each grade equals the sum of the eligible student totals divided by the number of students eligible to participate in state assessments. For the CRT Index, each student who scores within one of the following five levels shall receive the number of points indicated.

Advanced	200 points
Proficient	150 points
Basic	100 points
Approaching Basic	50 points
Unsatisfactory	0 points

Formula for Calculating the NRT and CRT Adjusted Achievement Index for a High School

1. Sum the number of points earned by all students. For the NRT, there shall be one score for each student: the NRT Index calculated from the student's composite standard score. For the CRT, students shall be taking two tests at each grade.
2. Divide by the total number of students eligible to be tested times the number of content area tests. This calculation provides the raw achievement index for the grade.
3. Multiply the raw index by the product of the non-dropout rates from the previous year, for that grade and for all the previous grades. (See Examples below.) This operation means that the grade 9 NRT Index shall be multiplied by the grade 9 non-dropout rate, the grade 10 CRT Index shall be multiplied by the grade 9 and grade 10 non-dropout rates, and the grade 11 CRT Index shall be multiplied by the grade 9, grade 10 and grade 11 non-dropout rates. This operation shall yield the Adjusted Achievement Index.
4. Zero shall be the lowest NRT or CRT Adjusted Achievement Index score reported for accountability calculations.

The formula for calculating the NRT and CRT Adjusted Achievement Index for a High School is:

NRT Adjusted Achievement Index = Raw Achievement Index * (1-DO Gr 9 + .07)

CRT Adjusted Achievement Index (Gr 10) = Raw Achievement Index * (1-DO Gr 9 + .07) * (1-DO Gr 10 + .07)

CRT Adjusted Achievement Index (Gr 11) = Raw Achievement Index * (1-DO Gr 9 + .07) * (1-DO Gr 10 + .07) * (1-DO Gr 11 + .07)

Example 1 – Grade 9:

- Before beginning grade 9, a class has 50 students; by the end of September, 45 remain in the class. The grade 9 dropout rate is $(5/50) = .100$.
- The number of points earned on the NRT is 5000.
- The raw achievement index is $5000/45 = 111.1$.
- The adjusted achievement index is $111.1 \times (1 - .100 + .07) = 107.8$.

Example 2 – Grade 10:

- Another 5 students dropout before October of grade 10. The grade 10 dropout rate is $5/45 = .111$.
- The 40 students remaining in the class earn 10,000 points on the two CRT tests. The raw achievement index is $10,000/(40 * 2) = 125.0$.
- The adjusted achievement index is $125.0 \times (1 - .100 + .07) \times (1 - .111 + .07) = 116.3$.

Attendance Index Calculations for Grades 9-12
 An Attendance Index score for each high school shall be calculated. The initial year's index shall be calculated from the prior year's attendance rates. Subsequent years' indexes shall be calculated using the prior two years' average attendance rates as compared to the State's goals.

Attendance Goals		
	10-Year Goal	20-Year Goal
Grades 9-12	93%	96%

Attendance Index Formula for Grades 9-12
 If the 10-Year and 20-Year Goals are 93% and 96% average attendance respectively and if the ATT = attendance percentage using the definition of attendance established by the Department of Education, the attendance index is calculated as follows:
 Indicator (ATT 9-12) = (16.667 * ATT) – 1450.0

Example:

- If the average attendance percentage is 94.3%, the Attendance Index would be $(16.667 * 94.3) - 1450.0 = 121.7$.

Zero shall be the lowest Attendance Index score reported for accountability calculations.

Dropout Index Calculations for Grades 9-12
 A Dropout Index score for each high school shall be calculated. The initial year's index shall be calculated from the prior year's dropout rates. Subsequent years' indexes shall be calculated using the prior two years' average dropout rates as compared to the State's goals.

Dropout Goals		
	10-Year Goal	20-Year Goal
Grades 9-12	7%	3%

Dropout Index Formula for Grades 9-12
 Dropout Index = $187.5 - (12.5 \times \text{dropout rate})$

Example:

- If the dropout rate is 4.5%, the Dropout Index would be $187.5 - (12.5 * 4.5) = 131.3$.

Zero shall be the lowest Dropout Index score reported for accountability calculations.

The national definition of *dropout* shall be adhered to, but in certain instances the Louisiana Department of Education shall calculate an "Adjusted Dropout Rate" for accountability purposes.

Data Collection and Data Verification

2.006.04 A test score shall be entered for all eligible students within a given school. For any eligible student who does not take the test, including those who are absent, a score of "0" on the CRT and NRT shall be calculated in the school's SPS. (See Standard 2.006.18 for students participating in LEAP Alternate Assessment B [LAA-B].) To assist a school in dealing with absent students, the Louisiana Department of Education shall provide an extended testing period for test administration. The only exception to this policy is a student who was sick during the test and re-testing periods and who has formal medical documentation for that period.

The Districts and the LDE shall evaluate any instance of Irregularity or Unusual Data in the following respects:

- For Attendance and Dropout data:**
- The LDE shall identify a statistically valid sample of all schools included in the accountability system. All schools included in this sample shall be audited.
 - Additionally, the LDE shall audit all schools included in the accountability system that have an Irregularity or Unusual Data Result (UDR), as defined below. The LDE may have an outside team conduct the audit.
 - The findings of the audit shall be reported to the SBESE, the local district and local school. If the audit findings cannot be resolved, the Superintendent shall recommend to the SBESE, who shall approve the appropriate data to be used in the calculation of the School Performance Score.

For NRT and CRT data:

- If there is evidence of an Irregularity or UDR, the LEA shall be required to investigate using a process as determined by the LDE and approved by the SBESE. The LEA shall report the results of its investigation to the State Superintendent of Education.
- If the State Superintendent of Education determines that the results of the investigation do not sufficiently explain the data, s/he shall designate a team to visit the school and conduct its own investigation.
- If the gains are validated by the visit, the school will be designated a "pacesetter" school. If the gains cannot be validated, the State Superintendent of Education may initiate further action.

Reported Irregularities:

- The LDE will determine and the SBESE shall approve a process for the public to report possible Irregularities.
- Anonymous complaints may be investigated.
- All signed complaints shall be investigated.

Allocation of Rewards (See Standard 2.006.08):

- If Irregularities are resolved and the data is corrected before rewards are provided, then the rewards will be based upon the corrected data.
- If the Irregularities are resolved and the data is corrected after rewards have been distributed, then the school shall be required to repay any rewards for which it was ineligible as determined by the audit findings or the SBESE will subtract the reward amount from future funds to be awarded to the district or from some other source.

An Unusual Data Result (UDR) shall be defined as any CRT, NRT, attendance or dropout data which exceeds a parameter, or a range of parameters, which shall be determined by the LDE and approved by the SBESE. An Irregularity shall be defined as any data which appears to contradict results which are otherwise expected; unrealistic information; or data generated as a result of defective data collection or processing.

Growth Targets

2.006.05 Each school shall receive a Growth Target that represents the amount of progress it must make every two years to reach the State's 10- and 20-Year Goals.

In establishing each school's Growth Target, the SPS inclusive of students with disabilities shall be used as the baseline. (See Standard 2.006.18.) However, the percentage of students with disabilities varies significantly across schools and the rate of growth for such students, when compared to regular education students, may be different. Therefore, the proportion of students with disabilities eligible to participate in the CRT or NRT in each school will be a factor in determining the Growth Target for each school.

Growth Targets [K-12]

During the first ten years, the formula is the following:

$[\text{PropRE} * (100 - \text{SPS})/N] + [\text{PropSE} * ((100 - \text{SPS})/(N + 5))] + [\text{PropLEP} * ((100 - \text{SPS})/(N+5))]$ or 5 points, *whichever is greater* where

PropSE = the number of special education students in the school who are eligible to participate in the NRT or CRT, divided by the total number of students in the school who are eligible to participate in the NRT or CRT. For purposes of this calculation, gifted, talented, and 504 students shall not be counted as special education students, but shall be included in the calculations as regular education students.

PropRE = 1-PropSE. PropRE is the proportion of students not in special education.

PropLEP = the number of limited English proficient students in the school who are eligible to participate in the NRT or CRT, divided by the total number of students in the school who are eligible to participate in the NRT or CRT. A limited English proficient student shall be defined as an individual who has sufficient difficulty speaking, reading, writing, or understanding the English language and whose difficulties may deny such individual the opportunity to learn successfully in classrooms where the language of instruction is English or participate fully in our society and who 1) was

not born in the United States or whose native language is a language other than English and comes from an environment where a language other than English is dominant; or 2) is a Native American or Alaska Native or who is a native resident of the outlying areas and comes from an environment where a language other than English has had a significant impact on such individual's level of English language proficiency; or 3) is migratory and whose native language is other than English and comes from an environment where a language other than English is dominant.

SPS = School Performance Score

N = Number of remaining accountability cycles in the 10-Year Goal period

The maximum amount of growth that a school shall be required to attain is 20 points.

The minimum amount of growth required shall be 5 points.

During the second ten years, the formula is the following:

$[\text{PropRE} * (150 - \text{SPS})/N] + [\text{PropSE} * ((150 - \text{SPS})/(N + 5))] + [\text{PropLEP} * ((150 - \text{SPS})/(N+5))]$, or 5 points, *whichever is greater*.

For cycle 1 only (2003), the Louisiana Department of Education shall calculate a growth target for 9-12 schools using the following formula
 $.75 * [(\text{PropRE} * (100 - \text{SPS})/N) + (\text{PropSE} * ((100 - \text{SPS})/(N + 5)))] + [\text{PropLEP} * ((100 - \text{SPS})/(N+5))]$.

For combination schools, the Louisiana Department of Education shall use 2 years of data (2002 and 2003) to determine if a school has met its growth target for cycle 1. Combination schools shall use the following formula to calculate a growth target:

$[[\text{PropRE} * (100 - \text{SPS})/N] + [\text{PropSE} * ((100 - \text{SPS})/(N + 5))] + [\text{PropLEP} * ((100 - \text{SPS})/(N+5))]]$, or 5 points, *whichever is greater*.

Growth Targets for New or Reconfigured Schools

Once a baseline for the new or reconfigured school has been established, a Growth Target shall be set based on the number of cycles remaining until 2009 (K-8) and 2011 (9-12), with a maximum Growth Target of 20 points.

For example, suppose an elementary school enters the Accountability System in 2003 and establishes a baseline SPS of 50 in 2005. Normally, the school's Growth Target would be $(100-50)/2 = 25$. Under this rule, the school's Growth Target shall be 20, the maximum.

Growth Targets for Reconstituted Schools

Until 2009 (for K-8 schools) and 2011 (for 9-12 schools), the reconstituted school's Growth Target shall be equal to 100 minus the SPS divided by 5 minus the number of cycles since reconstitution.

For example, suppose a school is reconstituted in 2005 and has a SPS of 50 (based on previous year's data). The school's Growth Target for the first cycle after reconstitution shall be $10 \text{ points } [(100-50)/5]$.

Inclusion of Alternative Education Students

2.006.17 Each superintendent, in conjunction with the alternative school director, shall choose from one of two options for including alternative education students in the Louisiana Accountability System for the system's alternative education schools.

Option I The score for every alternative education student at a given alternative school shall be returned to ("sent back") and included in the home-based school's SPS. The alternative school itself shall receive a "diagnostic" SPS, not to be used for rewards or Corrective Actions, if a statistically valid number of students were enrolled in the school at the time of testing.

Students included in the GED/Skills Option program will be included in School Accountability. They will be required to take the 9th grade Iowa Test or participate in LEAP Alternate Assessment B (LAA-B) or LEAP Alternate Assessment (LAA) while enrolled. All programs will be considered Option I for alternative education purposes and student data will be sent back to the sending high schools for attendance, dropout and Iowa Test scores.

Option II The score for every alternative education student shall remain at the alternative school. The alternative school shall be given its own SPS and Growth Target, which makes the alternative school eligible for rewards and Corrective Actions.

In order to be eligible for Option II, an alternative school shall meet all of the following requirements:

- the alternative school must have its own site code and operate as a school;
- the alternative school must have a required minimum number of students in the tested grade levels; the definition of *required minimum* is stated in Section 2.006.19; and
- at least 50 percent of the total school population must have been enrolled in the school for the entire school year, October 1-May 1.

Once an option is selected for an alternative school, it shall remain in that option for at least 10 years. An appeal to the SBESE may be made to change the option status prior to the end of 10 years if a school's purpose and/or student eligibility changes.

An alternative school that chooses Option II shall receive an initial baseline SPS during summer of 1999 if the majority of its students are in grades K-8. If the majority of its students are in grades 9-12, an alternative school shall receive its baseline SPS during the summer of 2001.

All students pursuing a regular high school diploma, working in curricula developed from Louisiana Content Standards, shall be included in the State-testing program, with those scores included in a SPS. Information on these students-e.g., number receiving a GED-shall be reported in the school's report card as a sub-report.

An alternative school in Corrective Actions II may request some flexibility in obtaining assistance from either a Distinguished Educator (DE) or a team designed to address the special needs of the alternative school population, as long as the total costs for the team do not exceed that for the DE. Sample team members could include the following: social workers, psychologists, educational diagnosticians, and counselors, etc.

Inclusion of Lab Schools and Charter Schools

Such schools shall be included in the Louisiana Accountability System following the same rules that apply to traditional and/or alternative schools. The only exceptions are that Lab Schools and Type 1, 2, and 3 Charter Schools are "independent@schools and cannot be "paired@or "shared@with another school if they do not have at least one CRT and one NRT grade level, and/or if there is no "home-based@district school to which a given student's scores can be returned if all three conditions for Option II cannot be met. Therefore, if they do not have the required grade levels and/or required minimum number of students, such schools cannot receive a SPS. Instead, the State shall publish the results from pre- and post-test student achievement results, as well as other relevant accountability data, as part of that school's report card. This policy is to be revisited during the year 2001.

For the 1999-2000 academic school year, detention and Department of Corrections facilities shall NOT receive a SPS.

Inclusion of Students with Disabilities

2.006.18 All students, including those with disabilities, shall participate in Louisiana's new testing program. The scores of all students who are eligible to take the CRT and the NRT shall be included in the calculation of the SPS. Most students with disabilities shall take the CRT and the NRT with accommodations, if required by their Individualized Education Program (IEP). A small percentage of students with very significant disabilities, limited to 1.5 percent per grade level per school district, shall participate in LEAP Alternate Assessment (LAA), as required by their IEP.

Local Education Agencies (LEAs) have the option to allow or disallow LEAP Alternate Assessment B (LAA-B). The decision to allow or disallow LAA-B must be in effect for one accountability cycle. The LEA shall determine the percentage of students who can test LAA-B, not to exceed a total of 4 percent of students at any grade level per school district. This 4 percent includes those students participating in LAA. The parent must agree with LAA-B through written parental approval, via the IEP. There shall be an appeals method in place to make decisions on exceptions when the district's 4 percent cap has been exceeded.

A student participating in LAA-B testing must test three or more grade levels below in either English/Language Arts or Mathematics. If a student does not test three or more grade levels below in at least one of these subject areas, the school will receive a "0" for that student's growth in the calculation of the school's SPS.

For students with disabilities who test in LAA-B, Iowa (ITBS) standard scores from two consecutive years shall be compared in the following manner to determine student performance in calculating the SPS:

Less than 5 standard score points of progress	0 points (Unsatisfactory)
5-9 standard score points of progress	50 points (Approaching Basic)
10-14 standard score points of progress	100 points (Basic)
15-19 standard score points of progress	150 points (Proficient)
20 + standard score points of progress	200 points (Advanced)

Appeals Process for Exceeding the Established Caps for LAA or LAA-B of Students with Disabilities

School districts that either

- exceed a total of 4 percent but less than 5 percent of the total district population at any grade level participating in LAA-B and LAA, AND/OR
- exceed a total of 1.5 percent but less than 2 percent of the total district population at any grade level participating in LAA.

must submit the following to the Department of Education (DOE) for review and approval:

- 1) a justification documenting the reasons for exceeding the cap(s), and
 - 2) a corrective action plan to
- increase participation in on-level assessment of the total district population at the grade level(s) where the cap was exceeded, and when applicable;
 - decrease participation in LAA to a maximum of 1.5 percent of the total district population at the grade level(s) where the cap was exceeded.

School districts that either

- exceed a total of 5 percent or more of the total district population at any grade level participating in LAA-B and LAA, AND/OR
- exceed a total of 2 percent of the total district population at any grade level participating in LAA

must submit the following to the Department of Education for review and approval:

- 1) a justification documenting the reasons for exceeding the cap(s), and
 - 2) a corrective action plan to
- increase participation in on-level assessment of the total district population at the grade level(s) where the cap was exceeded, and when applicable;
 - decrease participation in LAA to a maximum of 1.5 percent of the total district population at the grade level(s) where the cap was exceeded.

The school district will receive an onsite investigation by a Department of Education team; and following the investigation, the DOE team will meet with the school district's superintendent and appropriate staff to address the findings and revise, if necessary, the submitted corrective action plan.

Weegie Peabody
Executive Director

0211#027

RULE

Board of Elementary and Secondary Education

**Bulletin 1794C State Textbook Adoption Policy and
Procedure Manual C Reasonable and Proper Care for and
Control over Textbooks and Other Materials of Instruction
(LAC 28:XXXIII.523)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended to Bulletin 1794, *State Textbook Adoption Policy and Procedure Manual*, referenced in LAC 28:XXXIII. Bulletin 1794 is being revised to reflect legislative changes. Act 315 of the 2001 Regular Session of the Louisiana Legislature requires the principal of every school to transfer student educational records, within 10 business days, to educational facilities operated within correctional or health facilities, upon receipt of a written request. In addition, the authority for schools to withhold grades of students who have fines or fees related to lost or damaged books has been removed.

**Title 28
EDUCATION**

**Part XXXIII. Bulletin 1794C State Textbook Adoption
Policy and Procedure Manual**

Chapter 5. Local School System Responsibilities

**§523. Reasonable and Proper Care for and Control
over Textbooks and Other Materials of
Instruction**

NOTE: This policy shall also be applicable to instructional materials, supplies, and equipment. (See also *Bulletin 741*)

A. The SDE recommends that Student Handbooks, issued to students at the beginning of each school year, include a policy statement that stipulates responsibility for proper use and control over textbooks and other materials of instruction that are on loan to the students during the school year. Signature lines should be included for both students' and parent/legal guardians' acknowledgement of responsibility. In addition, a contact name and phone number should be provided. Payment plans for restitution by parents/guardians may be specified.

B. Each school system, as part of its responsibility to ensure proper care and control of textbooks, shall adopt procedures that hold students and parents/guardians responsible for exercising reasonable and proper care of textbooks and materials of instruction.

C. Such procedures may provide that parents and/or legal guardians may be required to compensate the school district for lost, destroyed, or unnecessarily damaged books and materials, and for any books which are not returned to the proper schools at the end of each school year or upon withdrawal of their dependent child. Under no circumstances may a student of school age be held financially responsible for fees associated with textbook replacement.

D. Compensation by parents or guardians may be in the form of monetary fees or community/school service

activities, as determined by the school governing authority. In the case of monetary fees, fines shall be limited to no more than the replacement cost of the textbook or material, but may, at the discretion of the governing authority, be adjusted according to the physical condition of the lost or destroyed textbook. A school system may waive or reduce the payment required if the student is from a family of low income and may provide for a method of payment other than lump-sum payment.

E. In lieu of monetary payments, both school systems and parents/guardians may elect to have students perform school/community service activities, provided that such are arranged so as not to conflict with school instructional time; these activities shall be properly supervised by school staff and shall be suitable to the age of the child.

F. Under no circumstances may a school or school district refuse the parent/guardian the right to inspect relevant grades or records pertaining to the child; nor may the school or school district refuse to transfer promptly the records of any child withdrawing or transferring from the school, per requirements of the Federal Family Educational Rights and Privacy Act. Transfer of records shall not exceed 45 days from the date of request, except for requests from any educational facility operated within any correctional or health facility. The transfer of such records shall not exceed 10 business days from the date of receipt of the written request.

G. Under no circumstances may a school or school district deny a student promotional opportunities, as a result of his/her failure to compensate the school district for lost or damaged textbooks. Students shall not be denied continual enrollment each grading period nor re-entry in succeeding school years as a result of lost or damaged books.

H. Students shall not be denied the use of a textbook during school hours each day. Each school system shall annually inform parents and/or legal guardians of the locally adopted procedures pursuant to state law and regulation, regarding reasonable and proper control of textbooks (See also *Bulletin 741, Louisiana Handbook for School Administrators* (Revised, 1997) for policy regarding this legislation).

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1001 (May 2000), LR 28:2329 (November 2002).

Weegie Peabody
Executive Director

0211#026

RULE

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Scholarship/Grant Programs
(LAC 28:IV.301, 703, 803, 2103, and 2105)

The Louisiana Student Financial Assistance Commission (LASFAC) hereby amends the Rules of the Scholarship/Grant programs (R.S. 17:3021-3026. 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—Higher
Education Scholarship and Grant Program**

Chapter 3. Definitions

§301. Definitions

* * *

Full-Time StudentC

a. - f. ...

g. correspondence courses may not be used to establish full time status.

* * *

JoinCenters on active duty.

* * *

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 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330 (November 2002).

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

§703. Establishing Eligibility

A. - A.4.a. ...

b. if the student *joins* the United States Armed Forces within one year after graduating from an eligible Louisiana or an eligible non-Louisiana high school or from an eligible out of country high school, enroll not later than the semester, excluding summer semesters or sessions, immediately following the fifth anniversary of the date that the student graduated from high school or within one year from the date of discharge, whichever is earlier; or

c. ...

d. if the student is eligible under the provisions of §703.A.5.d or f and has *joined* and is on active duty with the United States Armed Forces within one year of completion of the twelfth grade of an approved home study program, enroll not later than the semester or term, excluding summer semesters or sessions, immediately following the fifth anniversary of the completion of the approved home study program or within one year from the date of discharge, whichever is earlier; or

4.e. - 5.a. ...

i. 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

A.5.a.ii. - 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 24:636 (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 (November 2002).

Chapter 8. TOPS-TECH Award

§803. Establishing Eligibility

A. - A.4.a. ...

b. if the student *joins* the United States Armed Forces within one year after graduating from an eligible Louisiana or an eligible non-Louisiana high school or from an eligible out of country high school, enroll not later than the semester, excluding summer semesters or sessions, immediately following the fifth anniversary of the date that the student graduated from high school or within one year from the date of discharge, whichever is earlier; or

c. ...

d. if the student is eligible under the provisions of §803.A.5.d and has *joined* and is on active duty with the United States Armed Forces within one year of the date the student completed the home study program, which is deemed to be May 31, enroll not later than the semester or term, excluding summer semesters or sessions, immediately following the fifth anniversary of the date the student completed the home study program, or within one year from the date of discharge, whichever is earlier; and

5. - 5.d. ...

6. if qualifying under the terms of §803.A.5.a, at the time of high school graduation,

a. have successfully completed one of the following core curriculums:

i. 16.5 units of high school course work constituting the TOPS core curriculum as defined in §703.A.5. and documented on the student's official transcript as approved by the Louisiana Department of Education; or

ii. For students graduating in the 2000-2001 school year and thereafter, the high school course work documented on the student's official transcript as approved by the Louisiana Department of Education constituting the following TOPS-TECH core curriculum:

6.a.iii - 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).

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. 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 legal guardian of the Dependent Student may submit the application for exception on behalf of the applicant.

D.2. - E.11.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 24:647 (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 (November 2002).

§2105. Repayment Obligation, Deferment and Cancellation

A. - 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 legal guardian of the Dependent Student may submit the application for exception on behalf of the applicant.

D.2. - 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), amended LR 28:775 (April 2002), LR 28:2331 (November 2002).

George Badge Eldredge
General Counsel

0211#061

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs
(LAC 28:IV 301, 701, 703, 705, 805, 903,
1301, 1903, 2103, 2107, 2109, and 2303)

The Louisiana Student Financial Assistance Commission (LASFAC) amends its Scholarship/Grant Rules (R.S.

17:3021-3026, R.S. 3041.10-3041.15, and R.S. 17:3042.1, R.S. 17:3048.1).

Title 28 EDUCATION

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

Chapter 3. Definitions

§301. Definitions

A. ...

*Exceptional Child*Ca student defined as an exceptional child in accordance with R.S. 17:1943(4), excluding gifted and talented.

*Full-Time Student*C

a. - b. ...

c. for continuation purposes, a student is considered to have met the full-time requirement if by the completion of the academic year he has earned at least 24 hours of total credit as reported by the institution for the fall and spring semesters at institutions defining 12 semester hours as the minimum for standing as a full-time undergraduate or as reported by the institution for the fall, winter and spring quarters at institutions defining 8 quarter hours as the minimum for standing as a full-time undergraduate. For purposes of TOPS and except where specified otherwise within these rules, a student shall be credited for hours earned as reported by the institution which the student attends in accordance with that institution's published policies. Students should be aware that these policies may differ depending on the school the student attends. (see §§705.A., 705.D., 805.A., and 907.A. for more expanded TOPS requirements);

d - 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 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 (July 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 28:2331 (November 2002).

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

§701. General Provisions

A. - E.7. ...

8. Students funded under the Tuition Assistance Plan (TAP) or the Louisiana Honors Scholarship program during the 1997-98 award year, who lost eligibility due to their failure to maintain the required grade point average, shall be continued as TOPS Opportunity or Performance recipients, respectively, however, their eligibility for an award shall be suspended pending their satisfaction of the continuation requirements of §705.A.7 and 8. If a student satisfies the applicable requirements of §705.A.7 and 8 no later than the

end of the 2000 Spring Semester, he/she shall be eligible for reinstatement of the award in accordance with §705.B, for the semester following the satisfaction of the requirements of §705.A.7 and 8.

E.8. - 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 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).

§703. Establishing Eligibility

A. - A.4.b. ...

c. if the student is eligible under the provisions of §703.A.5.d or e, enroll not later than the semester or term, excluding summer semesters or sessions, immediately following the first anniversary of the date the student completes the home study program, which is deemed to be May 31; or

d. if the student is eligible under the provisions of §703.A.5.d or e, and has joined and is on active duty with the United States Armed Forces within one year of completion of the twelfth grade of an approved home study program, enroll not later than the semester or term, excluding summer semesters or sessions, immediately following the fifth anniversary of the completion of the approved home study program or within one year from the date of discharge, whichever is earlier; or

A.4.d. - D. ...

E. Students graduating in academic years 1996-97 and 1997-98 who qualified by reduction of the foreign language requirement must provide LASFAC a copy of their college transcript showing completion of one or more foreign language courses. Eligibility for an award is not established until receipt of the transcript verifying that the foreign language credit was earned and the student shall first be awarded for the semester or term following that in which eligibility was established. Under this provision, eligibility must be established not later than the conclusion of the 1998-99 award year.

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 LR 24:632 (April 1998), amended IR 24:1898 (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, 1998 (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:28:2332 (November 2002).

§705. Maintaining Eligibility

A. - A.11. ...

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.

C. - 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 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).

Chapter 8. TOPS-TECH Award

§805. Maintaining Eligibility

A. - A.8. ...

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

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 26:1997, 2002 (September 2000), LR 27:1856 (November 2001), LR 28:774 (April 2002), LR 28:2332 (November 2002).

Chapter 9. TOPS Teacher Award

§903. Establishing Eligibility

A. - A.4.a. ...

i. at the time of high school graduation, have successfully completed 16.5 units of high school course work constituting a core curriculum as defined in §703.A.5.a.i of LAC 28:IV; and

A.4.a.ii. - A.8. ...

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 LR 24:637 (April 1998), amended LR 24:1906 (October 1998), LR 26:68 (January 2000), LR 26:2269 (October 2000), LR 27:284 (March 2001), LR 27:1220 (August 2001), repromulgated LR 27:1135 (November 2001), amended LR 28:448 (March 2002), LR 28:774 (April 2002), LR 28:2332 (November 2002).

Chapter 13. Leveraging Educational Assistance Partnership (LEAP)

§1301. General Provisions

A. - B. ...

C. Louisiana administers a decentralized LEAP Program. Certain functions of the program are delegated to participating schools. Schools approved for participation in the Louisiana LEAP Program must have federal eligibility and must annually submit a state application and be approved for state participation. Funding available for a specific award year is allocated to eligible in-state postsecondary institutions who select and certify recipients to LASFAC. LASFAC forwards award funding to the institutions for disbursement to the student or student's account.

D. - F. ...

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

HISTORICAL NOTE: Promulgated LR 24:641 (April 1998), amended LR 24:1910 (October 1998), LR 25:1458 (August 1999), repromulgated LR 27:1860 (November 2001), amended LR 28:2332 (November 2002).

Chapter 19. Eligibility and Responsibilities of Postsecondary Institutions

§1903. Responsibilities of Postsecondary Institutions

A. - B.7.b. ...

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 guardian 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 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 28:2333 (November 2002).

Chapter 21. Miscellaneous Provisions and Exceptions

§2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements

A. - E.1.b.ii. ...

c. Maximum Length of Exception. Up to two consecutive semesters (three consecutive quarters) per pregnancy.

2. - 11.a. ...

i. The following situations are not exceptional circumstances:

a.i.(a) - 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 LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1017 (May 2000), LR 26:2004 (September 2000), LR 27:37 (January 2001), LR 27:1875 (October 2001), LR 27:1866 (November 2001), LR 28:46 (January 2002), LR 28:449 (March 2002), LR 28:775 (April 2002), LR 28:2333 (November 2002).

§2107. Funding and Fees

A. - C.2.a. ...

b. After the elimination of students under, §2107.C.2.a if funds are still insufficient to award all of those students who remain eligible for award year 1998-99, then those students qualified by the actions of the First Extraordinary Session of 1998 shall be funded only after all awards to all students who are eligible pursuant to the requirements of this Chapter as they existed prior to any Act of the 1998 First Extraordinary Session of the Legislature are fully funded. Students qualified by actions of the First Extraordinary Session of 1998 include the following:

- i. students qualified by reduction of Foreign Language requirement for 1996-97 and 1997-98 graduates;
- ii. students qualified as Exceptional Students/Students with disabilities;
- iii. students who graduated from out-of-state high schools; and,

iv. students who completed an Approved Home Study Program.

c. After the elimination of students in §2107.C.2.a, and b, if funds are still insufficient to award all of the remaining students, then those who remain will be prioritized according to their ACT score and, within ACT score, by their EFC in ranges of \$1,000, from lowest to highest. Beginning with the lowest qualifying ACT score, the students with the highest EFC shall be eliminated until the funds available are sufficient to award all remaining students or until all students with that ACT score have been eliminated. This process shall be repeated, beginning with the lowest ACT score and progressing to the highest ACT score, until the projected expenditure for awards equals the funds appropriated for that purpose.

d. After the elimination of students in §2107.C.2.a, if funds are sufficient to award all students who were eligible prior to the Act of the 1998 First Extraordinary Session of the Legislature, but are insufficient to award all students made eligible under such Act and listed in §2107.C.2.b, then those students made eligible by such Act shall be rendered ineligible by application of §2107.C.2.c, above, until funds available are sufficient to award all remaining students.

3. From among those students otherwise eligible who are denied an award because of the imposition of the procedures in §2107.C.2., if additional funds subsequently become available for expenditure in the same award year, those students who have the highest ACT scores and the least capacity to pay, as evidenced by their families' lower EFC, shall be the first to be awarded by reversing the procedure described in §2107.C.2.c.

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 LR 24:649 (April 1998), amended LR 24:1919 (October 1998), LR 26:1998 (September 2000), repromulgated LR 27:1869 (November 2001), LR 28:449 (March 2002), LR 28:777 (April 2002), LR 28:2333 (November 2002).

§2109. Agency Decisions Subject to Appeal

A. Right of Appeal

1. A person aggrieved by an adverse decision of LOSFA under §2103.E.11.a.ii may appeal the decision in accordance with the procedures provided in this section.

2. - 3. ...

B. Notice of Adverse Decision

1. Notice of an adverse decision by LOSFA under §2103.E.11.a.ii must be transmitted in writing to the applicant or participant. The notice must state with reasonable specificity the decision and the reason for the decision, state that the decision may be appealed, and set forth the procedure for submission of an appeal.

C. - D.9. ...

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 LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1261 (June 2000), repromulgated LR 27:1870 (November 2001), amended LR 28:2333 (November 2002).

Chapter 23. Tuition Payment Program for Medical School Students

§2303. Establishing Eligibility

A. - A.4. ...

5. agree to the full time practice of the profession of medicine as a primary care physician in a Designated Area for at least two consecutive years after graduating from medical school and completing a residency program in a primary care field as defined in §2303.A.4 above; and

6 - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1461 (August 1999) LR 25:2177 (November 1999), LR 26:2754 (December 2000), LR 27:1220 (August 2001), repromulgated LR 27:1872 (November 2001), LR 28:777 (April 2002), amended LR 28:2333 (November 2002).

George Badge Eldredge
General Counsel

0211#062

RULE

**Tuition Trust Authority
Office of Student Financial Assistance**

Student Tuition and Revenue Trust (START Saving) Program (LAC 28:VI. 101, 107, 301, 303, and 315)

The Louisiana Tuition Trust Authority (LATTA) hereby amends Rules of the Student Tuition Assistance and Revenue Trust (START Saving) Program (R.S. 17:3091-3099.2) period allowed under the Administrative Procedure Act.

**Title 28
EDUCATION**

**Part VI. Student Financial Assistance
Higher Education Savings**

Chapter 1. General Provisions

§101. General Provisions

A. - A.2. ...

3. provide the citizens of Louisiana with financing assistance for education and protection against rising postsecondary education costs, to encourage savings to enhance the ability of citizens to obtain access to institutions of postsecondary education;

A.4. - B.2. ...

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:711 (June 1997), amended LR 24:1267 (July 1998), LR 26:2260 (October 2000), LR 27:1876 (November 2001), LR 28:2334 (November 2002).

§107. Applicable Definitions

Earnings Enhancement Ca payment allocated to an Education Savings Account, on behalf of the Beneficiary of the account, by the state. The amount of the annual Earnings Enhancement is calculated based upon the Account Owner's classification, annual federal adjusted gross income, and total annual deposits of principal into Education Savings Accounts whether for investment in Fixed Earning or Variable Earnings. Earnings Enhancements, and the interest

earned thereon, may only be used to pay the Beneficiary's Qualified Higher Education Expenses, or portion thereof, at an Eligible Educational Institution and cannot be refunded.

Fully Funded Account Can account in which the sum of cumulative contributions, earnings on contributions, Earnings Enhancements and interest accrued thereon, has equaled or exceeded the amount which is five times the annual Qualified Higher Education Expenses at the highest cost Louisiana public college or university projected to the Scheduled Date of First Enrollment. The projected Qualified Higher Education Expenses at each Eligible Educational Institution shall be updated by the administering agency. On the date of the Beneficiary's first enrollment in an Eligible Educational Institution, the Fully Funded amount will be fixed at five times the annual Qualified Higher Education Expenses at the highest cost Louisiana public college or university, for the academic year of enrollment or the projected amount, whichever is greater.

Tuition Cthe mandatory educational charges required as a condition of enrollment.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, 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).

Chapter 3. Education Savings Account

§301. Education Savings Accounts

A. An Education Savings Account is established on behalf of a designated Beneficiary to provide the funding necessary for the Beneficiary to acquire an undergraduate certificate, associate degree, undergraduate degree, graduate degree or professional degree. Education Savings Accounts may offer investment options that provide either Fixed Earnings or Variable Earnings.

B. - D.1. ...

2. Payment of Qualified Higher Education Expenses Cthat participation in the START Program does not guarantee that the full cost of the Beneficiary's Qualified Higher Education Expenses will be paid at an institution of postsecondary education nor does it guarantee enrollment as a resident student;

D.3. - J. ...

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:713 (June 1997), amended LR 24:436 (March 1998), LR 24:1269 (July 1998), LR 25:1794 (October 1999), LR 26:2262 (October 2000), LR 27:1878 (November 2001), LR 28:450 (March 2002), LR 28:778 (April 2002), LR 28:2334 (November 2002).

§303. Account Owner Classifications

A. - A.1. ...

2. a person determined by the authority to be a Member of the Family of the Beneficiary and, at the time of

the initiation of the agreement, the person or the Beneficiary is a resident of the state; or

A.3. - C. ...

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 27:1879 (November 2001), LR 28:779 (April 2002), LR 28:2334 (November 2002).

§315. Miscellaneous Provisions

A. - Q. ...

R. Investment in Variable Earnings. When an account owner selects a variable earnings account, up to 100 percent of the deposits may be invested in equity securities.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), amended LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended LR 27:1221 (August 2001), LR 27:1884 (November 2001), LR 28:2335 (November 2002).

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0211#060

RULE

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

**Lead-Based Paint Activities
(LAC 33:III.2801-2811 and 2817)(AQ228)**

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.2801-2811 and 2817 (Log #AQ228).

LAC 33:III.Chapter 28 addresses lead-based paint activities, including inspections, risk assessments, and abatements, in target housing and child-occupied facilities. This revision includes definitions, clearance levels, and other requirements to assimilate language from the federal lead-based paint activities rule amendments in 40 CFR 745, Subpart D. States with EPA-authorized programs must incorporate the federal language into their regulations by February 5, 2003, to maintain program authorization. Other revisions are being made to clarify requirements related to recognition of training providers and accreditation of individuals, relative to dialogues with other states that operate EPA-authorized programs, members of the regulated community, and EPA. The basis and rationale for this Rule are to match the federal regulations and clarify the existing requirements.

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.

**Title 33
ENVIRONMENTAL QUALITY**

Part III. Air

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

§2801. Scope and Applicability

A. ...

B. This Chapter applies to all persons and contractors who are engaged in lead-based paint activities in target housing and child-occupied facilities, as defined in LAC 33:III.2803, except persons who perform these activities within residential dwellings that they own, unless the residential dwelling is occupied by a person or persons other than the owner or the owner's immediate family while these activities are being performed, or a child residing in the building has been identified as having an elevated blood lead level.

C. - G ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1662 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:2335 (November 2002).

§2803. Definitions

A. The terms used in this Chapter are defined in LAC 33:III.111 of these regulations with the exception of those terms specifically defined in this Section as follows.

Abatement Any measure or set of measures designed to permanently eliminate lead-based paint hazards. Abatement includes, but is not limited to:

a. the removal of paint and dust, the permanent enclosure or encapsulation of lead-based paint, the replacement of painted surfaces or fixtures, or the removal or permanent covering of soil when lead-based paint hazards are present in such paint, dust, or soil; and

b. all preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures.

* * *

Arithmetic Mean the algebraic sum of data values divided by the number of data values (e.g., the sum of the concentration of lead in several soil samples divided by the number of samples).

* * *

Chewable Surface Can interior or exterior surface painted with lead-based paint that a young child can mouth or chew. Hard metal substrates and other materials that cannot be dented by the bite of a young child are not considered chewable.

* * *

Composite Sample Ca collection of more than one sample of the same medium (such as dust, soil, or paint) from the same type surface (such as floor, interior window sill, or window trough), such that multiple samples can be analyzed as a single sample.

Concentration the relative content of a specific substance contained within a larger mass, such as the amount of lead (in micrograms per gram or parts per million by weight) in a sample of dust or soil.

Deteriorated Paint any interior or exterior paint or other coating that is chalking, cracking, flaking, chipping, peeling, or otherwise separating from the substrate of a building component.

Documented Methodologies methods or protocols used to sample for the presence of lead in paint, dust, and soil. Documented methodologies that are appropriate to use for target housing and child-occupied facilities may be found in the American Society of Testing and Materials procedures, ASTM E1727, E1728, and E1792; the U.S. Department of Housing and Urban Development (HUD) *Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing* (HUD-006700); the EPA *Guidance on Identification of Lead-Based Paint Hazards; Notice (FR 47248, Volume 60, Number 175)*; the EPA *Residential Sampling for Lead: Protocols for Dust and Soil Sampling* (EPA report number 747-R-95-001); and other EPA or HUD guidance.

Dripline the area within 3 feet surrounding the perimeter of a building.

Dry Sanding or Dry Scraping sanding or scraping without moisture and includes both hand and machine sanding. These practices are prohibited when removing lead-based paint (see LAC 33:III.2811.E.6).

Dust-Lead Hazard surface dust in a residential building or child-occupied facility, or their exteriors, that contains a mass-per-area concentration of lead equal to or exceeding 40 micrograms per square foot or 250 micrograms per square foot on window sills based on wipe samples.

Friction Surface an interior or exterior surface that is subject to abrasion or friction including, but not limited to, certain window, floor, and stair surfaces.

Impact Surface an interior or exterior surface that is subject to damage by repeated sudden force, such as certain parts of door frames.

Lead-Based Paint Hazard paint-lead hazards, dust-lead hazards, or soil-lead hazards as defined in this Section. For the purposes of this Chapter, *lead-based paint hazard* is equivalent to *lead hazard* as defined in R.S. 30:2351.1.

Loading the quantity of a specific substance present per unit of surface area, such as the amount of lead in micrograms contained in the dust collected from a certain surface area divided by the surface area in square feet or square meters.

Mid-Yard an area of residential yard approximately midway between the dripline of a residential building and the nearest property boundary or between driplines of a residential building and another building on the same property.

Paint-Lead Hazard

a. any lead-based paint on a friction surface that is subject to abrasion and where the lead dust levels on the nearest horizontal surface underneath the friction surface (e.g., the window sill or floor) are equal to or greater than the dust-lead hazard levels identified in this Chapter;

b. any damaged or otherwise deteriorated lead-based paint on an impact surface that is caused by impact from a related building component (such as a door knob that knocks into a wall or a door that knocks against its door frame);

c. any chewable lead-based painted surface on which there is evidence of teeth marks; and

d. any other deteriorated lead-based paint in any residential building or child-occupied facility or on the exterior of any residential building or child-occupied facility.

Play Area—an area of frequent soil contact by children six years of age or less as indicated by, but not limited to, such factors including the following: the presence of play equipment (e.g., sandboxes, swing sets, and sliding boards), toys, or other children's possessions, observations of play patterns, or information provided by parents, residents, care givers, or property owners.

Residential Building a building containing one or more residential dwellings.

Room a separate part of the inside of a building, such as a bedroom, living room, dining room, kitchen, bathroom, laundry room, or utility room. To be considered a separate room, the room must be separated from adjoining rooms by built-in walls or archways that extend at least 6 inches from an intersecting wall. Half walls or bookcases count as room separators if built-in. Movable or collapsible partitions or partitions consisting solely of shelves or cabinets are not considered built-in walls. A screened in porch that is used as a living area is a room.

Soil-Lead Hazard bare soil on residential real property or on the property of a child-occupied facility that contains total lead equal to or exceeding 400 parts per million (micrograms per gram) in a play area or average of 1,200 parts per million of bare soil in the rest of the yard based on soil samples.

Soil Sample a sample collected in a representative location using ASTM E1727, *Standard Practice for Field Collection of Soil Samples for Lead Determination by Atomic Spectrometry Techniques*, or equivalent method.

Substrate the material directly beneath the painted surface out of which the components are constructed, including wood, drywall, plaster, brick, concrete, and metal.

Weighted Arithmetic Mean the arithmetic mean of sample results weighted by the number of subsamples in each sample. Its purpose is to give influence to a sample relative to the surface area it represents. A single surface sample is comprised of a single subsample. A composite sample may contain from two to four subsamples of the same area as each other and of each single surface sample in the composite. The weighted arithmetic mean is obtained by

summing, for all samples, the product of the sample's result multiplied by the number of subsamples in the sample and dividing the sum by the total number of subsamples contained in all samples. For example, the weighted arithmetic mean of a single surface sample containing 60 micrograms per square foot, a composite sample (three subsamples) containing 100 micrograms per square foot, and a composite sample (4 subsamples) containing 110 micrograms per square foot is 100 micrograms per square foot. This result is based on the equation $[(60+(3*100)+(4*110))/(1+3+4)]$.

Wet Sanding or Wet Scraping Ca process to remove loose paint in which the painted surface to be sanded or scraped is kept wet to minimize the dispersal of paint chips and airborne dust.

Wipe Sample Ca sample collected by wiping a representative surface of known area, as determined by ASTM E1728, *Standard Practice for Field Collection of Settled Dust Samples Using Wipe Sampling Methods for Lead Determination by Atomic Spectrometry Techniques*, or equivalent method, with an acceptable wipe material as defined in ASTM E1792, *Standard Specification for Wipe Sampling Materials for Lead in Surface Dust*, or equivalent method.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1663 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:2335 (November 2002),

§2805. Recognition and Standards for Training Providers

A. - A.1. ...

2. a training provider seeking recognition shall submit to the Office of Environmental Services, Permits Division the appropriate fees, as required in LAC 33:III.223, a completed LPF-4 form, and a completed LPF-5 form for each trainer to be recognized, containing the following information:

A.2.a. - B.2.a. ...

b. training in the lead courses they are teaching;
c. current accreditation in the disciplines in which they instruct (lead worker course instructors shall maintain supervisor accreditation); and

d. at least one year of experience, education, or training in lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene;

3. ...

4. the following items shall be recognized by the department as evidence that training managers and principal instructors have the relevant education, work experience, training requirements, accreditations, and demonstrated experience:

a. ...

b. résumés, letters of reference, or documentation of work experience, as evidence of meeting the work experience requirements;

c. certificates from train-the-trainer courses, lead-specific training courses, and accreditations, as evidence of meeting the training requirements; and

d. principal instructors who were recognized initially based on training, education, and demonstrated work experience must provide current accreditation certificates in the appropriate disciplines by July 1, 2003, as required by Subparagraph B.2.c of this Section;

B.5. - C.2.c. ...

d. visual inspection for the purposes of identifying potential hazards associated with lead-based paint, dust-lead hazards, and soil-lead hazards;*

2.e. - 5.h. ...

D. Renewal of Training Provider's Recognition

1. A training provider seeking renewal of its recognition shall submit, along with the appropriate fees as required in LAC 33:III.223, a completed LPF-4 form and a completed LPF-5 form for each trainer to be recognized to the Office of Environmental Services, Permits Division, 60 days prior to its expiration date. If a training provider does not submit its renewal application by that date, the department cannot guarantee the application will be reviewed and acted upon before the end of the one-year period.

D.2. - E.2. ...

3. the department shall be notified in writing of course location and time changes or cancellations 24 hours prior to the initial class day;

E.4 - G.4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1666 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2459 (November 2000), LR 28:2337 (November 2002).

§2807. Accreditation of Individuals

A. - A.3. ...

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

A.5. - 8.c. ...

9. Upon meeting the provisions of this Section, the applicant will be issued an accreditation certificate by the department. The issue date of the accreditation certificate shall become the annual renewal date of accreditation.

B. - B.1.c.i. ...

ii. risk assessors: successful completion of a recognized training course and state certification examination for inspectors and risk assessors, and:

(a). - (e). ...

iii. lead project supervisor: a high school diploma (or equivalent) and at least two years of experience in lead, asbestos, or environmental remediation work or in the building trades;

B.1.c.iv. - E.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1669 (December 1997), amended LR 24:2240 (December 1998); amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2459 (November 2000), LR 28:2237 (November 2002).

§2809. Licensure of Lead Contractors

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

4. Letters of approval shall be valid through December 31 of issuance year. In order for lead contractors to be granted renewal, they must follow the procedures of this Subsection.

A.5. - B.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1671 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2459 (November 2000), LR 28:2338 (November 2002).

§2811. Work Practice Standards for Conducting Lead-Based Paint Activities for Target Housing and Child-Occupied Facilities

A. Applicability and Terms

1. All lead-based paint activities shall be performed in accordance with the work practice standards contained in this Section, except when treating paint-lead hazards of less than 2 square feet of deteriorated lead-based paint per room or equivalent, 20 square feet of deteriorated paint on the exterior of a building, or 10 percent of the total surface area of deteriorated paint on an interior or exterior type of component with a small surface area.

2. ...

3. Hazards related to paint, dust, and soil shall be determined as follows.

a. Lead-based paint is present on any surface that is tested and found to contain lead equal to or in excess of 1.0 milligrams per square centimeter or equal to or in excess of 0.5 percent by weight, and on any surface like a surface tested in the same room equivalent that has a similar painting history and that is found to be lead-based paint.

b. A paint-lead hazard shall be considered present:

i. on any friction surface that is subject to abrasion and where the lead dust levels on the nearest horizontal surface underneath the friction surface (e.g., the window sill or floor) are equal to or greater than the dust hazard levels defined in this Chapter;

ii. on any chewable lead-based paint surface on which there is evidence of teeth marks;

iii. where there is any damaged or otherwise deteriorated lead-based paint on an impact surface that is caused by impact from a related building component (such as a door knob that knocks into a wall or a door that knocks against its door frame); and

iv. if there is any other deteriorated lead-based paint in any residential building or child-occupied facility or on the exterior of any residential building or child-occupied facility.

c. A dust-lead hazard shall be considered present:

i. in a residential dwelling or child-occupied facility when in a residential dwelling on floors and interior window sills where the weighted arithmetic mean lead loading for all single surface or composite samples of floors and interior window sills are equal to or greater than 40 micrograms per square foot for floors and 250 micrograms per square foot for interior window sills, respectively;

ii. on floors or interior window sills in an unsampled residential dwelling in a multi-family dwelling, if a dust-lead hazard is present on floors or interior window sills, respectively, in at least one sampled residential unit on the property; and

iii. on floors or interior window sills in an unsampled common area in a multi-family dwelling, if a dust-lead hazard is present on floors or interior window sills, respectively, in at least one sampled common area in the same common area group on the property.

d. A soil-lead hazard shall be considered present:

i. in a play area when the soil-lead concentration from a composite play area sample of bare soil is equal to or greater than 400 parts per million; or

ii. in the rest of the yard, when the arithmetic mean lead concentration from a composite sample (or arithmetic mean of composite samples) of bare soil from the rest of the yard (i.e., non-play areas) for each residential building on a property is equal to or greater than 1,200 parts per million.

4. Clearance levels that are appropriate for the purposes of this Section are listed as follows:

a. dust wipes from floors/carpets: 40 micrograms per square foot;

b. dust wipes on window sills: 250 micrograms per square foot;

c. dust wipes on window troughs: 400 micrograms per square foot;

d. dust wipes from exterior surfaces: 400 micrograms per square foot;

e. lead-contaminated bare soil and lead-contaminated covered soil in areas expected to be used by children: 400 micrograms per gram; and

f. lead-contaminated covered soil in areas where contact by children is less likely or infrequent: 1200 micrograms per gram.

A.5. - D.4. ...

5. In residential dwellings dust samples (either composite or single-surface samples) from the window and floor shall be collected and analyzed for lead concentrations in all living areas where one or more children, age six years and under, are most likely to come into contact with a dust-lead hazard.

6. - 6.a. ...

b. other common areas in the building where the risk assessor determines that one or more children, age six years and under, are likely to come into contact with a dust-lead hazard.

7. For child-occupied facilities window and floor dust samples (either composite or single-surface samples) shall be collected and analyzed for lead concentrations in each room, hallway, or stairwell utilized by one or more children,

age six years and under, and in other common areas in the child-occupied facility where the risk assessor determines one or more children, age six years and under, are likely to come into contact with a dust-lead hazard.

8. Soil samples shall be collected and analyzed for lead concentrations in the following locations:

a. exterior play areas and non-play areas where bare soil is present; and

D.8.b. - E.6.d. ...

7. For any exterior abatement of lead-based paint, pre-abatement composite soil samples following documented methodologies that incorporate adequate quality control procedures shall be taken by an accredited inspector or an accredited risk assessor next to the foundation or from the dripline below any exterior surface to be abated, unless this information is available from a current risk assessment. The samples shall be sent for analysis to a recognized laboratory capable of performing these analyses. When analysis results exceed 400 micrograms per gram and bare soil is present, the contractor will furnish a written copy of the analysis results to the owner/operator of the residential dwelling or child-occupied facility prior to abatement.

8. If conducted, soil abatement shall be conducted in one of the following ways:

a. if soil is removed, the lead-contaminated soil shall be replaced with soil that is not lead-contaminated. Any lead-contaminated soil that is removed shall not be used as top soil at another residential property or child-occupied facility; or

b. if soil is not removed, the lead-contaminated soil shall be permanently covered, as defined in LAC 33:III.2803.

9. - 9.f. ...

g. the accredited inspector or the accredited risk assessor shall compare the residual lead level (as determined by the laboratory analysis) from each dust sample with applicable clearance levels for lead in dust on floors, carpets, and windows. If the residual lead levels in a dust sample are equal to or exceed the clearance levels, all the components represented by the failed sample shall be re-cleaned and retested until clearance levels are met. Until all applicable clearance levels for lead in dust are met, the area shall not be cleared for reoccupancy.

E.10. - 13. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1672 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2459 (November 2000), repromulgated LR 27:39 (January 2001), amended LR 28:2338 (November 2002).

§2817. Reciprocity

A. Individuals seeking accreditation from the department for a specific discipline, based upon accreditation by EPA or an EPA-approved state or Indian tribal program, shall submit copies of the following documents:

1. a valid lead-based paint activities certification (or equivalent) from EPA or an EPA-approved state or tribal program;

2. a training course certificate, issued by a training provider who, at the time the training certificate was issued,

was an EPA or EPA-approved state or tribal program authorized training provider, and all subsequent annual refresher training certificates;

3. certification of a passing score on the applicable accreditation examination, if applicable;

4. an official academic transcript or diploma that meets the educational requirements in LAC 33:III.2807; and

5. a completed application for accreditation in the specific discipline and one 1" x 1 1/4" photograph of the applicant, with the appropriate fees.

B. Exception. An individual who seeks accreditation as a lead project supervisor for the purpose of obtaining a letter of approval (LAC 33:III.2809) must take the Louisiana state examination for that discipline.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1676 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:2339 (November 2002).

James H. Brent, Ph.D.
Assistant Secretary

0211080

RULE

Office of the Governor Division of Administration Office of Group Benefits

EPO Plan of Benefits
(LAC 32:V.101, 317, 325, 501, 503, 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) 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 provisions of the EPO Plan Document. The reason for this action is to avoid disruption of healthcare services for covered employees, retirees, and their dependents, adversely affecting the health and welfare of the public workforce responsible for delivery of vital services to the citizens of the state.

Accordingly, OGB amends the following Rule, effective upon promulgation, except as noted below with respect to LAC 32:V.701.A.3.

Title 32

EMPLOYEE BENEFITS

Part V. Exclusive Provider (EPO) Plan of Benefits

Chapter 1. Eligibility

§101. Persons to be Covered

Eligibility requirements apply to all participants in the Program, whether in the PPO Plan, the EPO Plan or an HMO plan.

A. - H. ...

I. Tricare for Life Option for Military Retirees. Retirees eligible to participate in the Tricare for Life (TFL) option on

and after October 1, 2001 who cancel coverage with the Program upon enrollment in TFL may re-enroll in the Program in the event that the TFL option is discontinued or its benefits significantly reduced.

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 25:1804 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 27:718 (May 2001), LR 28:2339 (November 2002).

Chapter 3. Medical Benefits

§317. Exceptions and Exclusions for All Medical Benefits

A. No benefits are provided under this *plan* for:

1. - 3. ...
4. injuries sustained while in an aggressor role;
5. - 41. ...

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 Trustee of the State Employees Group Benefits Program, LR 25:1813 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 26:487 (March 2000), LR 27:717 (May 2001), LR 28:2340 (November 2002).

§325. Prescription Drug Benefits

A. This *plan* allows benefits for drugs and medicines approved by the Food and Drug Administration or its successor requiring a prescription and dispensed by a licensed pharmacist or pharmaceutical company, but which are not administered to a *covered person* as an inpatient hospital patient or an outpatient hospital patient, including insulin, Retin-A dispensed for *covered persons* under the age of 26, Vitamin B12 injections, prescription Potassium Chloride, and over-the-counter diabetic supplies, including, but not limited to, strips, lancets, and swabs. In addition, this *plan* allows benefits, not to exceed \$200 per month, for expenses incurred for the purchase of low protein food products for the treatment of inherited metabolic diseases if the low protein food products are medically necessary and are obtained from a source approved by the OGB. Such expenses shall be subject to coinsurance and copayments relating to prescription drug benefits. In connection with this benefit, the following words shall have the following meanings.

1. *Inherited Metabolic Disease*Ca disease caused by an inherited abnormality of body chemistry and shall be limited to:

- a. Phenylketonuria (PKU);
- b. Maple Syrup Urine Disease (MSUD);
- c. Methylmalonic Acidemia (MMA);
- d. Isovaleric Acidemia (IVA);
- e. Propionic Acidemia;
- f. Glutaric Acidemia;
- g. Urea Cycle Defects;
- h. Tyrosinemia.

2. *Low Protein Food Products*Ca food product that is especially formulated to have less than one gram of protein per serving and is intended to be used under the direction of a physician for the dietary treatment of an inherited metabolic disease. Low protein food products shall not include a natural food that is naturally low in protein.

B. - C.5. ...

a. Up to a 34-day supply of drugs may be dispensed upon initial presentation of a prescription or for refills dispensed more than 120 days after the most recent fill;

b. For refills dispensed within 120 days of the most recent fill, up to a 102-day supply of drugs may be dispensed at one time, provided that co-payments shall be due and payable as follows.

i. For a supply of 1-34 days the *plan member* will be responsible for payment of 50 percent of the cost of the drug, up to a maximum of \$40 per prescription dispensed.

ii. For a supply of 35-64 days the *plan member* will be responsible for payment of 50 percent of the cost of the drug, up to a maximum of \$80 per prescription dispensed.

iii. For a supply of 69-102 days the *plan member* will be responsible for payment of 50 percent of the cost of the drug, up to a maximum of \$120 per prescription dispensed.

iv. Once the out-of-pocket threshold for eligible prescription drug expenses is reached, the *plan member's* co-payment responsibility will be \$15 for a 1-34 days supply, \$30 for a 35-64 days supply, and \$45 for a 69-102 days supply, with no co-pay for up to a 102-days supply of generic drugs.

6. - 7. ...

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 25:1815 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 27:717, 718 (May 2001), LR 27:1886 (November 2001), LR 28:2340 (November 2002).

Chapter 5. Claims Review and Appeal

§501. Administrative Review

This Section establishes and explains the procedures for review of benefit and eligibility decisions by the program.

A. Administrative Claims Review

1. The *covered person* may request from the Program a review of any claim for benefits or eligibility. The written request must include the name of the *covered person*, member number, the name of the patient, the name of the provider, dates of service and should clearly state the reasons for the appeal.

2. The request for review must be directed to Attention: Administrative Claims Review within 90 days after the date of the notification of denial of benefits, denial of eligibility, or denial after review by the utilization review organization or prescription benefits manager

B. Review and Appeal Prerequisite to Legal Action

1. The *covered person* must exhaust the Administrative Claims Review procedure before filing a suit for benefits. Unless a request for review is made, the initial determination becomes final, and no legal action may be brought to attempt to establish eligibility or to recover benefits allegedly payable under the *program*.

C. Administrative Claims Committee

1. The CEO will appoint an Administrative Claims Committee (the Committee) to consider all such requests for review and to ascertain whether the initial determination was made in accordance with the Plan Document.

D. Administrative Claims Review Procedure and Decisions

1. Review by the *committee* shall be based upon a documentary record which includes:

- a. all information in the possession of the *program* relevant to the issue presented for review;
- b. all information submitted by the *covered person* in connection with the request for review; and
- c. any and all other information obtained by the Committee in the course of its review.

2. Upon completion of the review the *committee* will render its decision which will be based on the *plan* Document and the information included in the record. The decision will contain a statement of reasons for the decision. A copy of the decision will be mailed to the *covered person* and any representative thereof.

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 25:1818 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:477 (March 2002), LR 28:2340 (November 2002).

§503. Appeals from Medical Necessity Determinations

The following provisions will govern appeals from adverse determinations based upon medical necessity by OGB's Utilization Review Organization (URO) pursuant to Article 3, Section IV of this document.

A. First level appeal. Within 60 days following the date of an adverse initial determination based upon medical necessity, the *covered person*, or the provider acting on behalf of the *covered person*, may request a first level appeal.

1. Each such appeal will be reviewed within the URO by a health care professional who has appropriate expertise.

2. The URO will provide written notice of its decision.

B. Second level review. Within 30-days following the date of the notice of an adverse decision on a first level appeal, a covered person may request a second level review.

1. Each such second level review will be considered by a panel within the URO that includes health care professionals who have appropriate expertise and will be evaluated by a clinical peer or peers in the same or similar specialty as would typically manage the case being reviewed.

a. The review panel will schedule and hold a review meeting, and written notice of the time and place of the review meeting will be given to the covered person at least fifteen working days in advance.

- b. The covered person may:
- i. present his/her case to the review panel;
 - ii. submit supporting material and provide testimony in person or in writing or affidavit both before and at the review meeting; and
 - iii. ask questions of any representative of the URO.

c. If face-to-face meeting is not practical the covered person and provider may communicate with the review panel by conference call or other appropriate technology.

2. The URO will provide written notice of its decision on the second level review.

C. External Review. Within 60 days after receipt of notice of a second level appeal adverse determination, the covered person whose medical care was the subject of such determination, with the concurrence of the treating health care provider, may submit request for an external review to the URO.

1. The URO will provide the documents and any information used in making the second level appeal adverse determination to its designated independent review organization.

2. The independent review organization will review all information and documents received and any other information submitted in writing by the covered person or the covered person's health care provider.

3. The independent review organization will provide notice of its recommendation to the URO, the covered person, and the covered person's health care provider.

4. An external review decision will be binding on the URO, on OGB and on the covered regarding the medical necessity determination.

D. Expedited Appeals

1. An expedited appeal may be initiated by the covered person, with the consent of the treating health care professional, or the provider acting on behalf of the covered person, with regard to:

a. an adverse determination involving a situation where the time frame of the standard appeal would seriously jeopardize the life or health of a covered person or would jeopardize the covered person's ability to regain maximum function; or

b. any request concerning an admission, availability of care, continued stay, or health care service for a covered person who has received emergency services but has not been discharged from a facility.

2. In an expedited appeal the URO will make a decision and notify the covered person, or the provider acting on behalf of the covered person, as expeditiously as the covered person's medical condition requires, but in no event more than seventy-two hours after the appeal is commenced.

3. The URO will provide written confirmation of its decision concerning an expedited appeal if the initial notification is not in writing.

4. In any case where the expedited appeal does not resolve a difference of opinion between the URO and the covered person, or the provider acting on behalf of the covered person, such provider may request a second level review of the adverse determination.

E. Expedited External Review of Urgent Care Requests

1. When the covered person receives an adverse determination involving an emergency medical condition of the covered person being treated in the emergency room, during hospital observation, or as a hospital inpatient, the covered person's health care provider may request an expedited external review.

2. The URO will transmit all documents and information used in making the adverse determination to the independent review organization by telephone, telefacsimile, or other available expeditious method.

3. Within 72 hours after receiving appropriate medical information for an expedited external review, the independent review organization will notify the covered person, the URO, and the covered person's health care provider of its decision to uphold or reverse the adverse determination.

4. An external review decision will be binding on the URO, on OGB and on the covered regarding the medical necessity determination.

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 25:1818 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:477 (March 2002), LR 28:2341 (November 2002).

NOTE: Form §501-513 redesignated herein as §501.A-D.

Chapter 7. Schedule of Benefits C EPO

§701. Comprehensive Medical Benefits

A. - A.1. ...

2. Member Co-Payments

	Non-EPO Provider	EPO Provider
Inpatient Hospital Services	N/A	\$100 per day up to \$300
Outpatient Services		
Physician services	N/A	\$ 15/\$25 ¹
Physical /Occupational Therapy ²	N/A	\$ 15
Speech Therapy	N/A	\$ 15
Surgery	N/A	\$ 100
MRI/CAT SCAN	N/A	\$ 50
Sonograms	N/A	\$ 25
Cardiac Rehabilitation (6-month limit)	N/A	\$ 15
Emergency Room Services (waived if admitted)	N/A	\$100

1-2 ...

Pre-Natal And Postpartum Maternity (one-time co-payment to include Physician delivery charge, all prenatal, one postpartum visit)	N/A	\$ 90
Home Health (Limit 150 visits per Plan year; requires prior approval through Case Management)	N/A	\$ 15 per visit
<ul style="list-style-type: none"> Note: Services rendered by non-EPO providers are subject to deductible. 		

3. Percentage Payable after Co-payments and Satisfaction of Applicable Deductibles

Eligible expenses incurred at an EPO	N/A	100%
Eligible expenses incurred at a non-EPO	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
*Coinsurance threshold increase from \$5,000 to \$10,000 effective January 1, 2003		
<ul style="list-style-type: none"> Eligible expenses at EPO are based upon contracted rates. 		

<ul style="list-style-type: none"> Eligible expenses at non-PPO 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.4. - C.2. ...

3. Well Adult (no deductible; limited to a maximum benefit of \$200)

Age 16 to 39 C1 physical every 3 years	70% of maximum	No co-pay
Age 40 to 49 C1 physical every 2 years	70% of maximum	No co-pay
Age 50 and over C1 physical every year	70% of maximum	No co-pay

D. - E. ...

F. - G. Reserved

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 by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 26:488 (March 2000), LR 27:719, 720, 722 (May 2001), LR 27:1887 (November 2001), LR 28:2342 (November 2002).

A. Kip Wall
Chief Executive Officer

0211#034

RULE

**Office of the Governor
Division of Administration
Office of Group Benefits**

EPO Plan of Benefits C Stop Loss Threshold, Non-EPO Provider Services (LAC 32:V.323 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 provisions of the EPO Plan Document relative to the stop loss threshold applicable to services rendered to EPO plan participants by non-EPO providers. The reason for this action is to avoid adverse financial impact that would affect fiscal solvency of OGB and the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, OGB hereby amends the following Rule to become effective January 1, 2003.

**Title 32
EMPLOYEE BENEFITS**

**Part V. Exclusive Provider (EPO) Plan of Benefits
Chapter 3. Medical Benefits**

§323. Preferred Provider Program
Repealed.

NOTE: In light of revisions to the EPO Schedule of Benefits (LAC 32:V.701) by Rule published November 2002, this Section 323 is superseded and repealed by implication.

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 25:1815 (October 1999), repealed by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:2343 (November 2002).

**Chapter 7. Schedule of Benefits—EPO
§701. Comprehensive Medical Benefits**

A. Eligible expenses for professional medical services are reimbursed on a fee schedule of maximum allowable charges. All eligible expenses are determined in accordance with plan limitations and exclusions.

	Non-EPO	EPO
Lifetime Maximum for all benefits except outpatient prescription drug benefits per person	\$2,000,000	
Lifetime Maximum for all Outpatient Prescription Drug Benefits per person	\$250,000	

1. ...
2. Percentage Payable after Satisfaction of Applicable Deductibles

	Non-EPO	EPO
Inpatient deductible per day, maximum of 5 days per admission (waived for admissions at PPO hospitals)	\$50	0
Emergency room charges for each visit unless the <i>covered person</i> is hospitalized immediately following emergency room treatment (prior to and in addition to <i>plan year deductible</i>)	\$150	0
Professional and other eligible expenses, employees and dependents of employees, per person, per plan year		
Family unit maximum (3 individual deductibles)		
Professional and other eligible expenses, retirees and dependents of retirees, per person, per plan year		
Family unit maximum (3 individual deductibles)		
Professional and other eligible expenses, other than physician office visits, per person, per plan year	\$300	0
Family unit maximum (3 individual deductibles)		

A.3. - E. ...
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 25:1823 (October 1999), amended LR 26:487 (March 2000), LR 27:717 (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 28:2343 (November 2002).

A. Kip Wall
Chief Executive Officer

0211#032

RULE

**Office of the Governor
Division of Administration
Office of Group Benefits**

PPO Plan of Benefits
(LAC 32:III.101, 317, 323, 501, 503, 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) 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 provisions of the PPO Plan Document. The reason for this action is to avoid disruption of healthcare services for covered employees, retirees, and their dependents, adversely affecting the health and welfare of the public workforce responsible for delivery of vital services to the citizens of the state.

Accordingly, OGB hereby amends the following Rule, effective upon promulgation.

**Title 32
EMPLOYEE BENEFITS**

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 1. Eligibility

§101. Persons to be Covered

Eligibility requirements apply to all participants in the Program, whether in the PPO Plan, the EPO Plan or an HMO plan.

A. - H. ...

I. Tricare for Life Option for Military Retirees. Retirees eligible to participate in the Tricare for Life (TFL) option on and after October 1, 2001 who cancel coverage with the Program upon enrollment in TFL may re-enroll in the Program in the event that the TFL option is discontinued or its benefits significantly reduced.

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 25:1825 (October 1999), LR 27:721 (May 2001), LR 28:2343 (November 2002).

Chapter 3. Medical Benefits

§317. Exceptions and Exclusions for All Medical Benefits

A. No benefits are provided under this plan for:

1. - 3. ...
4. Injuries sustained while in an aggressor role;
5. - 39. ...

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 25:1834 (October 1999), LR 26:488 (March 2000), LR 27:720 (May 2001), LR 28:2343 (November 2002).

§323. Prescription Drug Benefits

A. This plan allows benefits for drugs and medicines approved by the Food and Drug Administration or its successor requiring a prescription and dispensed by a licensed pharmacist or pharmaceutical company, but which are not administered to a Covered Person as an inpatient hospital patient or an outpatient hospital patient, including insulin, Retin-A dispensed for Covered Persons under the age of 26, Vitamin B12 injections, prescription Potassium Chloride, and over-the-counter diabetic supplies including, but not limited to, strips, lancets, and swabs. In addition, this plan allows benefits, not to exceed \$200 per month, for expenses incurred for the purchase of low protein food products for the treatment of inherited metabolic diseases if the low protein food products are medically necessary and are obtained from a source approved by the OGB. Such expenses shall be subject to coinsurance and copayments relating to prescription drug benefits. In connection with this benefit, the following words shall have the following meanings.

1. *Inherited Metabolic Disease*Ca disease caused by an inherited abnormality of body chemistry and shall be limited to:

- a. Phenylketonuria (PKU);
- b. Maple Syrup Urine Disease (MSUD);
- c. Methylmalonic Acidemia (MMA);
- d. Isovaleric Acidemia (IVA);
- e. Propionic Acidemia;
- f. Glutaric Acidemia;
- g. Urea Cycle Defects;
- h. Tyrosinemia.

2. *Low Protein Food Products*Ca food product that is especially formulated to have less than one gram of protein per serving and is intended to be used under the direction of a physician for the dietary treatment of an inherited metabolic disease. Low protein food products shall not include a natural food that is naturally low in protein.

B. - C.5. ...

a. Up to a 34-day supply of drugs may be dispensed upon initial presentation of a prescription or for refills dispensed more than 120 days after the most recent fill.

b. For refills dispensed within 120 days of the most recent fill, up to a 102-day supply of drugs may be dispensed at one time, provided that co-payments shall be due and payable as follows.

i. For a supply of 1-34 days the *plan member* will be responsible for payment of 50 percent of the cost of the drug, up to a maximum of \$40 per prescription dispensed.

ii. For a supply of 35-64 days the *plan member* will be responsible for payment of fifty percent of the cost of the drug, up to a maximum of \$80 per prescription dispensed.

iii. For a supply of 69-102 days the Plan Member will be responsible for payment of 50 percent of the cost of the drug, up to a maximum of \$120 per prescription dispensed.

iv. Once the out-of-pocket threshold for digible prescription drug expenses is reached, the *plan member's* co-payment responsibility will be \$15 for a 1-34 days supply,

\$30 for a 35-64 days supply, and \$45 for a 69-102 days supply, with no co-pay for up to a 102-days supply of generic drugs.

6. - 7. ...

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 25:1835 (October 1999), LR 27:720, 721 (May 2001), LR 27:1887 (November 2001), LR 28:2344 (November 2002).

Chapter 5. Claims Review and Appeal

§ 501. Administrative Review

This section establishes and explains the procedures for review of benefit and eligibility decisions by the Program.

A. Administrative Claims Review

1. The Covered Person may request from the Program a review of any claim for benefits or eligibility. The written request must include the name of the *covered person*, member number, the name of the patient, the name of the provider, dates of service and should clearly state the reasons for the appeal.

2. The request for review must be directed to Attention: Administrative Claims Review within 90 days after the date of the notification of denial of benefits, denial of eligibility, or denial after review by the utilization review organization or prescription benefits manager.

B. Review and Appeal Prerequisite to Legal Action

1. The *covered person* must exhaust the Administrative Claims Review procedure before filing a suit for benefits. Unless a request for review is made, the initial determination becomes final, and no legal action may be brought to attempt to establish eligibility or to recover benefits allegedly payable under the *program*.

C. Administrative Claims Committee

1. The CEO will appoint an Administrative Claims Committee (the Committee) to consider all such requests for review and to ascertain whether the initial determination was made in accordance with the *plan document*.

D. Administrative Claims Review Procedure and Decisions

1. Review by the *committee* shall be based upon a documentary record which includes:

a. all information in the possession of the *program* relevant to the issue presented for review;

b. all information submitted by the *covered person* in connection with the request for review; and

c. any and all other information obtained by the *committee* in the course of its review.

2. Upon completion of the review the *committee* will render its decision which will be based on the *plan document* and the information included in the record. The decision will contain a statement of reasons for the decision. A copy of the decision will be mailed to the *covered person* and any representative thereof.

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 25:1838 (October 1999), LR 28:479 (March 2002), LR 28:2344 (November 2002).

NOTE: Former §§501-513 redesignated herein as §501.A-D.

§ 503. Appeals from Medical Necessity Determinations

The following provisions will govern appeals from adverse determinations based upon medical necessity by

OGB's Utilization Review Organization (URO) pursuant to Article 3, Section IV of this document.

A. First Level Appeal. Within 60 days following the date of an adverse initial determination based upon medical necessity, the covered person, or the provider acting on behalf of the covered person, may request a first level appeal.

1. Each such appeal will be reviewed within the URO by a health care professional who has appropriate expertise.

2. The URO will provide written notice of its decision.

B. Second Level Review. Within 30 days following the date of the notice of an adverse decision on a first level appeal, a covered person may request a second level review.

1. Each such second level review will be considered by a panel within the URO that includes health care professionals who have appropriate expertise and will be evaluated by a clinical peer or peers in the same or similar specialty as would typically manage the case being reviewed.

a. The review panel will schedule and hold a review meeting, and written notice of the time and place of the review meeting will be given to the *covered person* at least 15 working days in advance.

b. The *covered person* may:

i. present his/her case to the review panel;

ii. submit supporting material and provide testimony in person or in writing or affidavit both before and at the review meeting; and

iii. ask questions of any representative of the URO.

c. If face-to-face meeting is not practical the covered person and provider may communicate with the review panel by conference call or other appropriate technology.

2. The URO will provide written notice of its decision on the second level review.

C. External Review. Within 60 days after receipt of notice of a second level appeal adverse determination, the covered person whose medical care was the subject of such determination, with the concurrence of the treating health care provider, may submit request for an external review to the URO.

1. The URO will provide the documents and any information used in making the second level appeal adverse determination to its designated independent review organization.

2. The independent review organization will review all information and documents received and any other information submitted in writing by the covered person or the covered person's health care provider.

3. The independent review organization will provide notice of its recommendation to the URO, the covered person, and the covered person's health care provider.

4. An external review decision will be ... on the URO, on OGB and on the covered regarding the medical necessity determination.

D. Expedited Appeals

1. An expedited appeal may be initiated by the covered person, with the consent of the treating health care

professional, or the provider acting on behalf of the covered person, with regard to:

a. an adverse determination involving a situation where the time frame of the standard appeal would seriously jeopardize the life or health of a covered person or would jeopardize the covered person's ability to regain maximum function; or

b. any request concerning an admission, availability of care, continued stay, or health care service for a covered person who has received emergency services but has not been discharged from a facility.

2. In an expedited appeal the URO will make a decision and notify the *covered person*, or the provider acting on behalf of the covered person, as expeditiously as the covered person's medical condition requires, but in no event more than 72 hours after the appeal is commenced.

3. The URO will provide written confirmation of its decision concerning an expedited appeal if the initial notification is not in writing.

4. In any case where the expedited appeal does not resolve a difference of opinion between the URO and the covered person, or the provider acting on behalf of the covered person, such provider may request a second level review of the adverse determination.

E. Expedited External Review of Urgent Care Requests

1. When the *covered person* receives an adverse determination involving an emergency medical condition of the covered person being treated in the emergency room, during hospital observation, or as a hospital inpatient, the covered person's health care provider may request an expedited external review.

2. The URO will transmit all documents and information used in making the adverse determination to the independent review organization by telephone, telefacsimile, or other available expeditious method.

3. Within 72 hours after receiving appropriate medical information for an expedited external review, the independent review organization will notify the covered person, the URO, and the covered person's health care provider of its decision to uphold or reverse the adverse determination.

4. An external review decision will be binding on the URO, on OGB and on the covered regarding the medical necessity determination.

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 25:1838 (October 1999), LR 28:479 (March 2002), LR 28:2344 (November 2002).

Chapter 7. Schedule of Benefits C PPO

§701. Comprehensive Medical Benefits

A. - A.1. ...

2. Percentage Payable after Satisfaction of Applicable Deductibles

Eligible expenses incurred at a PPO	90%
Eligible expenses incurred at a non PPO when Plan Member resides outside of Louisiana	90%

Eligible expenses incurred at a non-PPO when Plan Member resides in Louisiana	70%
Eligible expenses incurred when Medicare or other group health plan is primary, and after Medicare reduction	80%
Eligible expenses in excess of \$10,000 per Calendar Year per person	100%
<ul style="list-style-type: none"> Eligible expenses at PPO are based upon contracted rates. PPO discounts are not eligible expenses and do not apply to the \$10,000 threshold. 	
<ul style="list-style-type: none"> Eligible expenses at non-PPO 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 \$10,000 threshold. 	

3. Reserved

4. ...

B. - C.3. ...

²PPO in-state and non-Louisiana residents C100 percent of eligible expenses up to the maximum benefit;
Non-PPO in-state C70 percent of eligible expenses up to 70 percent of the maximum benefit

E. ...

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 25:1843 (October 1999), LR 26:488 (March 2000), LR 27:719, 720, 722 (May 2001), LR 27:1887 (November 2001), LR 28:2345 (November 2002).

A. Kip Wall
Chief Executive Officer

0211#033

RULE

Office of the Governor Division of Administration Office of Statewide Reporting Accounting Policy

Collection Policy and Procedure (LAC 4:XIII.Chapter 1)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and Act 904 of Regular Session 2001, the Division of Administration hereby adopts a collection policy and procedure for use by state agencies.

Title 4

ADMINISTRATION

Part XIII. Statewide Reporting Accounting Policy

Chapter 1. Collection Policy and Procedure

§101. Introduction

A. Overview

1. The following policies and procedures are presented in a broad format to be used by state agencies/departments within the Executive branch of government, including colleges and universities, to create their own detailed, agency-specific procedures, subject to approval by the Cash Management Review Board.

2. Implementation of these policies and procedures are mandated by Act 904 of Regular Session 2001 which enacts Subpart E of Part II of Chapter I of Title 39 of the Louisiana Revised Statutes, to be comprised of R.S. 39:88.1 through 39:88.4, and cited as the "Louisiana Collection and Procedure Act." Its purpose is to provide a comprehensive collection policy and procedure for collection of obligations due to the state be established for use by all state agencies.

3. Act 904 of Regular Session 2001 states: "The Commissioner of Administration shall prescribe and cause to be implemented a comprehensive collection policy and procedure to be used in all state agencies. ... The policy and procedures manual shall include rules and regulations to assist state agencies in the identification and collection of delinquent accounts. ... Each state agency shall comply with the provisions of collection policy and procedure manual and is authorized to establish and maintain internal controls not inconsistent with the provisions included in the manual. The Cash Management Review Board shall oversee the development of and implementation of the collection policies and procedures manual in each state agency and is authorized to adopt rules and regulations in furtherance of this responsibility."

B. Purpose

1. To establish guidelines for accounts that are considered to be uncollectible.

2. To establish authoritative approval process for uncollectible accounts to be written off for financial reporting purposes only.

3. To establish guidelines for agencies/departments to use for implementation of internal control policy and procedure of accounts receivable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:88.1 through 39:88.4 and Act 904 of Regular Session 2001.

HISTORICAL NOTE: Promulgated by the Office of Governor, Division of Administration, Office of Statewide Reporting and Accounting Policy, LR 28:2346 (November 2002).

§103. Accounts Receivable Process Overview and Objectives

A. Billing Process Overview and Objectives

1. To provide accurate and timely billing for amounts owed to the state.

2. To provide a means of tracking accounts receivable.

3. To provide billing capabilities for various types of receivables.

4. To provide the capabilities of monitoring the aging of accounts receivable, creating customer billings and statements based on the age of the receivable.

5. To provide internal control procedures and accountability.

6. Detailed policies and procedures are stated in the Control Agencies Policies and Procedures Manual under Chapter 13.4 and 13.5, Accounts Receivable Recognition Overview and Recording Revenue Recognition Overview.

B. Billing Event Overview and Objective

1. Recording of the billing event will be performed by the agency/department. Agency/department will initiate the data entry, obtain approvals and process the billing.

2. Invoices and statements are printed at the agency/department location and sent to the customer on a timely basis. Agency/department shall provide statements at least monthly.

3. Once a receivable has been incurred, an invoice should be prepared and sent to debtor on a timely basis.

4. Agency/department are responsible to track their own receivables. Keep records of and all correspondences pertaining to the account.

5. The agency/department will obtain complete and accurate information on each debtor in the event of default.

6. Each month a report is prepared to review the accounts for further action. The agency/department shall provide a report relating to accounts that are over 30 days, 60 days, 90 days, and older.

7. Agency/department shall inform and notify the debtor of additional fees, charges, and cost that may be incurred for failure to pay a debt:

- a. fee that will be charged for NSF checks;
- b. interest on unpaid balance per month;
- c. attorney or collection agency fees;
- d. late penalty fees.

8. Agency/department whose collections are based on taxpayers' records, and therefore do not issue invoices, are not subject to Items 1, 2, and 3 above.

C. Billing Receipts Overview and Objective

1. Agency/department receives the money. Credit the appropriate customer's account.

2. Compliance with R.S. 39:372 and the Louisiana Constitution Article VII, Section 9 (A) requires "all monies received by the State or by any state board, agency, or commission shall be deposited immediately upon receipt in the State Treasury, except for certain listed therein." ("Immediately" is defined as within 24 hours of receipt. The State Treasury cash management practices require state-depositing entities to deposit receipts in the State's central depository account or designated regional depository accounts. The depositing agency is responsible for revenue classification in the accounting system.)

3. Detailed policies and procedures are stated in the Control Agencies Policies and Procedures Manual under Chapter 6, Cash Receipts.

D. Accounting Procedures Overview and Objective

1. Agency/department should maintain a proper segregation of duties such as opening the mail, recording the receipt, and maintaining the accounts receivable records. If not feasible, implement supervisory review and controls.

2. A monthly Aged Trial Balance of all accounts should be checked and verified that the amount equals the balance in the General Ledger, if applicable.

3. Obtain all necessary information on the debtor in the event of default such as:

- a. current home and work address and phone number;
- b. social security and/or federal employer identification number;
- c. name of address of nearest relative or guardian;
- d. date of birth;
- e. credit references;
- f. any other relevant information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:88.1 through 39:88.4 and Act 904 of Regular Session 2001.

HISTORICAL NOTE: Promulgated by the Office of Governor, Division of Administration, Office of Statewide Reporting and Accounting Policy, LR 28:2346 (November 2002).

§105. Collection Process Overview, Objective, and Policy Guidelines

A. The following procedures are very general and broad for the purposes of identifying area of concerns and general concentration.

1. Collection Process Objectives

a. To establish and implement a collection policy and procedure that the Cash Management Review Board has approved.

b. To identify delinquent accounts.

c. To pursue delinquent accounts by creating collection letters that are tailored to the agency/department's need.

d. To apply late charges and interest to delinquent accounts.

e. To interface with other software to enhance the intercepting of payments.

f. To provide an updated customer account balance for any collection activity:

i. payments or NSF checks.

g. To provide the ability to write off uncollectible accounts with proper authority and documentation. Debt is still owed to the state.

h. To establish and maintain Internal Controls.

2. Collection Process

a. Begins when the debt is recognized or the service is completed. The agency/department shall provide an invoice or statement in a timely manner to the debtor.

b. Different messages would appear on the statement according to the status of the account to remind the customer of the amount owed to the state, any payments and/or adjustments made since the last printed statement.

c. Apply interest and/or late charges as statutorily prescribed.

d. With the proper documentation and approval, write off from the financial statements any account that is deemed uncollectible after following the procedures outlined in §107.B. The debt is still owed to the state.

3. Collection Follow-Up Procedures

a. Policies and procedures are established and implemented at the agency/department that were approved by the Cash Management Review Board.

b. Send a minimum of one follow-up billing statement to debtor. The scheduled billing cycle shall be designated by agency/department.

c. Send second billing statement to debtor with a warning (dunning) message explaining the action that will be taken within a scheduled billing cycle from the first statement.

d. Third billing statement notifies the debtor that the account has been forwarded to a collection agency or attorney general's office within a scheduled billing cycle from the second statement.

e. Course of Action after the Third Billing Statement

i. Discontinue service and notify debtor by letter that service has been discontinued, if applicable to the agency/department.

ii. The agency/department will continue to collect amounts by all available means. Private collection agency, debt offset, etc.

f. Further Action (Discretion of agency/department policies and procedures approved by Cash Management Review Board)

i. Agency/department's secretary or undersecretary may approve the account to be written off or continue to collect (agency's discretion).

ii. Agency/department may continue its collection process or assign the account to a collection agency.

iii. Follow-up with the Attorney General's office or collection agency on the status of the account.

g. If appropriate, contact past due customers by telephone at any time during the collection process to ensure collection.

4. Allowance for Doubtful Accounts

a. Each agency/department should establish an allowance for doubtful accounts to ensure that the agency/department's receivables are not overstated for financial reporting purposes.

b. The allowance method used shall be established by the agency/department with the Cash Management Review Board approval. However, the amount should be based upon historical data or other pertinent information relative to the receivable. Sound accounting theory must be used at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:88.1 through 39:88.4 and Act 904 of Regular Session 2001.

HISTORICAL NOTE: Promulgated by the Office of Governor, Division of Administration, Office of Statewide Reporting and Accounting Policy, LR 28:2347 (November 2002).

§107. Write-Off of Uncollectible Accounts Process Overview, Objective, and Policy Guidelines

A. Write-Off Objectives

1. To establish and implement a collection policy and procedure that the Cash Management Review Board has approved.

2. An authorization to write-off an account does not constitute a forgiveness of indebtedness.

3. Debtor remains obligated to the state.

4. Write-off authorizes a state agency to:

a. transfer an account to a dormant file;

b. discontinue incurring the expense involved in collecting the account;

c. discontinue reporting the amount as a receivable on the General Ledger.

5. To encourage proper write-offs on a fiscal year end basis.

6. The agencies/departments will have the ability to write-off an account from their financial statements when it is evident that it is uncollectible.

7. To establish and authorize the board and/or committee within each state agency/department to recommend any write offs when the accounts are deemed uncollectible.

a. The board and/or committee shall be managerial level personnel within the appropriate department.

8. Detailed policies and procedures are stated in the Control Agencies Policies and Procedures Manual under Chapter 13C Accounts Receivable.

B. Write-Off Process

1. Agency/department must request an account to be written off through their respective board/committee.

2. Amounts over a specific designation require additional approval from the agency/department's secretary or undersecretary as recommended by the committee.

3. The request to write off a receivable by the agency/department must include the following information:

a. the name and address of the debtor;

b. the age of the account;

c. the nature of the amounts owed;

d. the collection efforts that have been made;

e. any other pertinent information to give a full understanding of the request such as debtor's employment status, debtor financial status, debtor's accessibility, etc.

4. Approved write-off must be reported on the Quarterly Accounts Receivable Report and retained in a dormant file and removed from current records.

5. For payments received on an account written-off, record the amount received as revenue, do not re-establish the receivable.

C. Write-Off Criteria

1. The amount is deemed uncollectible.

2. The write-off will not prejudice the position of the state.

3. All reasonable collection efforts have been exhausted.

4. The debtor cannot be located or a discharge of bankruptcy has occurred.

5. The applicable statute of limitations for collection of debt has expired.

6. The debtor is deceased and there is no estate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:88.1 through 39:88.4 and Act 904 of Regular Session 2001.

HISTORICAL NOTE: Promulgated by the Office of Governor, Division of Administration, Office of Statewide Reporting and Accounting Policy, LR 28:2348 (November 2002).

§109. Debt Intercept or Offset Process Overview, Objective, and Policy Guidelines

A. Warrant Intercept

1. Vendor/debtor is receiving a payment from the state, a request is made by a state agency to intercept the payment for a past due amount, the system automatically applies the payment to the past due amount, and the difference is sent to the vendor.

2. State legislation will be required to enforce this type of intercept.

B. Revenue Recapture

1. Past due amounts can be recaptured through tax refund.

2. Other means of recapture are lottery or gaming winnings.

3. Both recapture programs are administered through the Department of Revenue.

C. Offsets

1. Current offset allowed by R.S. 47:299.2 against income tax refunds are specifically used by:

a. Department of Justice Collections Section;

b. Louisiana Student Financial Assistance Commission's Student Loan Collection Section;

c. Division of Support Enforcement of the Office of Family Support in the Department of Social Services and any other office or facility of DSS;

d. Department of Health and Hospitals;

e. Department of Public Safety and Corrections;

f. Department of Labor.

2. Offset program could be greatly expanded to include other state agencies/departments and all tax refunds, not just income taxes, unemployment benefits, or any other payments made by the state.

3. Additional legislation will be required to expand the offset program.

D. Garnishments, Liens, and Judgments

1. When such measures are deemed cost effective.

2. Used by most state agencies/departments through private collection firms or Attorney General's office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:88.1 through 39:88.4 and Act 904 of Regular Session 2001.

HISTORICAL NOTE: Promulgated by the Office of Governor, Division of Administration, Office of Statewide Reporting and Accounting Policy, LR 28:2348 (November 2002).

§111. Quarterly Reporting of Accounts Receivable Overview and Policy Guidelines

A. Objectives

1. To establish a report that shows each state agency/department's accounts receivable balances and activities during the quarter as mandated by R.S 39:79.
2. To establish guidelines and procedures for the quarterly reporting as stated by Memorandum SA 96-45.
3. To ensure the quarterly reports are consistent and as accurate as possible.
4. To have uniformity of reporting for all state agencies/departments.
5. To ensure the timely reporting of the quarterly report as stated by Memorandum SA 96-45.

B. Procedures for Quarterly Reporting

1. Quarterly Activity (Form AR-1)
 - a. Gross Receivables and Debt at End of Quarter
 - b. Estimated Uncollectible for the Quarter
 - c. Net Receivable for the Quarter
 - d. Write-Offs for the Quarter
2. Aging of Receivables (Form AR-12)
 - a. Current Receivables-do not include those past due
 - b. Past Due Receivables: 1-30 days
 - c. Past Due Receivables: 31-90 days
 - d. Past Due Receivables: 181 days-1 year
 - e. Past Due Receivables: over one year
 - f. Total Receivables Past Due
 - g. Total Gross Receivable
 - h. Total gross receivables must equal gross receivables and debt at end of quarter reported on form AR-1.
3. Collections Activity for Receivables over 180 days (Form AR-3)
 - a. Amount over 180 Days Past Due
 - b. Collections within the Agency
 - c. Collections with Attorney General's Office
 - d. Collections with Private Collection Firm
 - e. Collections--Other (specify the type)
 - f. Collections--Under Protest
 - g. Amount over 180 days past due must equal 181 days-1 year and over 1 year total amount reported on form AR-2
4. Write-Off Disclosure (Form AR-4)
 - a. Number of Accounts Cif applicable
 - b. Amount of the Write-Offs
 - c. Reason for the Write-Off
 - d. The total write-off must equal write-off disclosure reported on Form AR-1.
5. Annual Comparison of Receivables (Form AR-5)
 - a. Major Revenue Source
 - b. Amount Past Due--Prior Year Ending Balance
 - c. Amount Past Due--Current Year Ending Balance
 - d. Increase/Decrease
 - e. Percentage of Change
 - f. Explanation given for each comparison variance on the bottom of the page designated as "Explanation" for each category.

C. Accounts Receivable Quarterly Reports

1. Quarterly reports starting with September 30, 2000 is available on OSRAP website: <http://www.state.la.us/osrap/index.htm>.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:88.1 through 39:88.4 and Act 904 of Regular Session 2001.

HISTORICAL NOTE: Promulgated by the Office of Governor, Division of Administration, Office of Statewide Reporting and Accounting Policy, LR 28:2349 (November 2002).

F. Howard Karlton
Director

0211#030

RULE

**Office of the Governor
Office of Financial Institutions**

**Capital Companies Tax Credit Program
(LAC 10:XV.323)**

Under the authority of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 51:1929(5) of the Louisiana Capital Companies Tax Credit Program, R.S. 51:1921 et seq., the Commissioner of Financial Institutions adopts the following new Rule to provide for the levy of fees and assessments upon certified Louisiana capital companies.

Title 10

**FINANCIAL INSTITUTIONS, CONSUMER CREDIT,
INVESTMENT SECURITIES,
AND UCC**

Part XV. Other Regulated Entities

**Chapter 3. Capital Companies Tax Credit Program
§323. Fees and Assessments**

A. Pursuant to the authority granted under R.S. 51:1929(5), the following fee and assessment structure is hereby established to cover necessary costs associated with the administration of the certified Louisiana Capital Companies Tax Credit Program, R.S. 51:1921 et seq.

1. Request for certification of capital pursuant to R.S. 51:1924. Each certified Louisiana capital company seeking an allocation of certified capital shall submit a non-refundable fee with the request for allocation filed on October 1 and December 1 of each year.

Requested Amount	Fee
Less than \$250,000	\$1,000
\$250,000 < \$3,000,000	\$2,500
\$3,000,000 or greater	\$5,000

2. Annual assessment of each certified Louisiana capital company at a floating rate to be assessed no later than May 15 of each year, to be based on the total certified capital under management, as defined in LAC 10:XV.303, as of the previous December 31 audited financial statements. Any amounts collected in excess of actual expenditures related to the administration of the certified Louisiana capital companies program by the Office of Financial Institutions shall be credited or refunded on a pro rata basis. Any shortages in assessments to cover actual operating expenses of OFI relating to the administration of the certified

Louisiana capital companies program shall be added to the next variable assessment or billed on a pro rata basis.

Fee	Variable
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3. Late Fee. For each calendar day that an assessment is late pursuant to the requirements of Section 323.B.2, a late fee shall be assessed.

Fee	\$100 per day
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B. Administration

1. The failure to submit a fee with the request for allocation as required in Section 323.A.1 shall result in the denial of an allocation of certified capital.

2. The assessment described in Section 323.A.2 shall be considered late if not received by this office on or before May 31 of each calendar year. If this office receives an assessment after May 31, it shall not be deemed late if it was postmarked on or before May 31.

3. If audited financial statements are not submitted to this office by April 30, unaudited financial statements shall be submitted no later than May 1. These unaudited financial statements shall then be used to determine the assessment amount provided for in Section 323.A.2. Accompanying these audited or unaudited financial statements shall be a detailed calculation of total certified capital under management as of December 31.

4. If neither an audited nor unaudited financial statement has been received by this office by May 1, beginning on June 1, the late fee described in Section 323.A.3 shall be assessed until the assessment has been paid.

5. If any of the dates described in parts 2 and 3 above, except the April 30 and the December 31 due date for audited financial statements, occurs on an official state holiday or a Saturday or a Sunday, the next business day for the Office of Financial Institutions shall be the applicable due date.

6. The assessment for each certified Louisiana capital company group, as defined in R.S. 51:1923(11), and described in §323.A.2 shall be based on the following formula.

a. The numerator will be the total certified capital under management for the group as of the previous December 31.

b. The denominator will be the total certified capital under management for all certified Louisiana capital companies as of the previous December 31.

C. Severability

1. If any provision or item of this regulation, or the application thereof, is held invalid, such invalidity shall not affect other provisions, items, or applications of the regulation which can be given effect without the invalid provisions, items, or application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1929(5).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions LR 28:2349 (November 2002).

John D. Travis
Commissioner

0211#070

RULE

**Office of the Governor
Division of Administration
Office of Telecommunications Management**

**Telecommunications Building Access Standards
(LAC 4:IX.707)**

In accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755, and the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Telecommunications Management hereby amends LAC Title 4, Part IX, Chapter 7, by adding Section 707, Telecommunications Building Access Standards. In accordance with Act 1183 of 1999, the Office of the Governor, Division of Administration, Office of Telecommunications Management has given written consideration to the Rule's impact on family. The Rule should have no impact on any family as defined in R.S. 49:972.D or on family formation, stability, and autonomy. In accordance with R.S. 49:972.C, the written family impact statement will be kept on file in the Office of Telecommunications Management.

Title 4

ADMINISTRATION

Part IX. Telecommunications

**Chapter 7. Telecommunications Service Standards
§707. Telecommunications Building Access Standards**

A. In general, telecommunications access to state-owned buildings shall be made through an as-needed competitive procurement activity that includes provisions and requirements for building access as a part of the state's needs to acquire telecommunications services. This Section is not applicable to those telecommunications service providers that have existing access facilities in state-owned buildings. In special cases where a telecommunications service provider is building out its network and desires access to a new or existing state-owned building in that process, this Section shall apply.

B. When determined by the Office of Telecommunications Management and with the concurrence of the agency/owner to be in the best interest of the state, building access and space in state-owned buildings may be made available to telecommunications service providers. It is the state's intention to provide access to the building through a state-owned and state-provided conduit system.

C. The Office of Telecommunications Management shall be responsible for developing a standard building access agreement. The Office of Telecommunications Management shall be responsible for developing installation standards and guidelines for use by telecommunications service providers. The Office of Telecommunications Management shall coordinate the processing of all requests by telecommunications service providers for building access. The telecommunications service provider shall be responsible for initiating a written request for building access to the Office of Telecommunications Management that contains specific details of accommodation requirements and types of services offered. The

agency/owner shall be responsible for sending all requests from telecommunications service providers to the Office of Telecommunications Management. Each building access agreement shall be signed by the agency/owner and the telecommunications service provider and approved by the Office of Telecommunications Management.

D. The criteria for accommodation shall be first come/first served, reasonable availability of space, a demonstrated need for the type of service to be provided, and safety considerations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140-141, 143, R.S. 39:1751-1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 28:2350 (November 2002).

Joseph A. Lanier
Director

0211#076

RULE

Office of the Governor Used Motor Vehicle and Parts Commission

Change in Time of Board Meeting; Public Comments
at Board Meetings; and Educational Seminars
(LAC 46:V.2701, 4401, and 4403)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with Revised Statutes Title 32, Chapters 4A and 4B, the Office of the Governor, Used Motor Vehicle and Parts Commission, notice is hereby given that the Used Motor Vehicle and Parts Commission has adopted rules and regulations governing public comments at Board Meetings in accordance with R.S. 47:5.D and educational seminars in accordance with R.S. 32:774.B.(3)(b)(i)-(iv). The Used Motor Vehicle Parts Commission has amended the time of the regularly scheduled Board Meetings as indicated in R.S. 32:772.E.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part V. Automotive Industry

Subpart 2. Used Motor Vehicle and Parts Commission

Chapter 27. The Used Motor Vehicle and Parts Commission

§2701. Meetings of the Commission

A. The Commission shall meet at its office in Baton Rouge, LA on the third Tuesday in each month to transact such business as may properly come before it. The regular meeting will convene at the hour of 9 a.m. and shall continue at the pleasure of those present. Any change of monthly meetings will be in accordance with the Open Meeting Law R.S. 42:5.

B. ...

C. A public comment period shall be held at or near the beginning of each board meeting. Persons desiring to present public comments shall notify the board chairman no later than 48 hours prior to the date of the regular meeting and 72 hours prior to the date of a special meeting. All written requests to have an item or items placed on the agenda must indicate, in detail, what items they wish to discuss. Public

discussions are limited only to items on the agenda. There will be a maximum of 30 minutes for all public comments to be heard and each person will be limited to three minutes. Additional time can be allowed by the chairman as he deems reasonable. Each person making public comments shall identify himself and the group, organization or company he represents, if any.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772.E and R.S. 42:5.D.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 15:1058 (December 1989), LR 18:1116 (October 1992), LR 24:1682 (September 1998), LR 25:1792 (October 1999), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:2351 (November 2002).

Chapter 44. Educational Seminar

§4401. Required Attendance

A. On and after January 1, 2002, every applicant for a used motor vehicle dealer's license that has not been licensed prior to January 1, 2003, must attend a four-hour educational seminar approved and conducted by the Used Motor Vehicle and Parts Commission. Existing dealers will be grandfathered in and not mandatorily required to attend said seminar.

1. The seminar will be conducted by employees of the Used Motor Vehicle and Parts Commission and will be held at the office of the commission located at 3132 Valley Creek Drive, Baton Rouge, Louisiana, 70808.

2. The seminar will be held once a month on the first Monday of each month beginning at 9 a.m. and ending at 1 p.m.

3. As a courtesy to existing dealers, educational seminars will be conducted throughout the state once a year.

4. In addition to new dealers being required to attend the four hour seminar, any existing dealers who are found guilty of violations of commission laws and/or rules and regulations will be required to attend.

5. There will be no charge for attendance to the educational seminar.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774.B.(3)(b)(i)-(iv).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:2351 (November 2002).

§4403. Certification

A. Upon applying for a 2003 used motor vehicle dealer's license, the applicant must attach a copy of the certificate of completion which documents that the dealership's general manager, office manager, title clerk or other responsible representative of the dealership has attended the four-hour educational seminar. If the applicant has not completed the educational seminar, he must provide evidence that he has registered to attend such seminar within 60 days after issuance of the license.

B. The certificate shall list the participant's name and title, name and address of the used motor vehicle dealer, date of completion and signature of instructor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774.B.(3)(b)(i)-(iv).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:2351 (November 2002).

§4403. Educational Program

A. The educational seminar will consist of information pertaining to the Used Motor Vehicle and Parts Commission, Department of Revenue and Taxation, Office of Motor Vehicles, Wildlife and Fisheries, Motor Vehicle Commission and Attorney General's Office. The items to be reviewed are as follows:

1. LUMVPCCbackground of the agency, laws, rules and regulations, license requirements, area of responsibility, complaint procedures, hearing procedures and non-delivery of titles;
2. LMVCCfinance licenses;
3. RevenueCsubmission of monthly sales reports and collection of taxes;
4. Office of Motor VehiclesCnon-delivery of titles, certificates of title and completion of titles by dealers;
5. Wildlife and FisheriesCregistration of marine products;
6. Office of Attorney GeneralCcivil and criminal matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774.B.(3)(b)(i)-(iv).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:2352 (November 2002).

John M. Torrance
Executive Director

0211#056

RULE

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

Dispensing of Medications
(LAC 46:XLV.6507 and 6513)

In accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority of the Louisiana Medical Practice Act, R.S. 37:1261-1292 and R.S. 37:1201, the Louisiana State Board of Medical Examiners has amended its existing medication dispensing rules governing the effect of providing false or misleading information on an application and the eligibility requirements prerequisite to registration as a dispensing physician. The rule are set forth below.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part XLV. Medical Profession
Subpart 3. Practice**

Chapter 65. Dispensation of Medications

Subchapter B. Prohibitions and Sanctions

§6507. Action Against Medical License

A. Violation of the prohibitions set forth in §6505, or providing false or misleading statements in connection with any application required by this Subchapter, shall be deemed to constitute just cause for the suspension, revocation, refusal to issue, or the imposition of probationary or other restrictions on any license or permit to practice medicine in

the state of Louisiana held or applied for by a physician culpable of such violation, or for other administrative action as the board may in its discretion determine to be necessary or appropriate, under R.S. 37:1285.A.(3), R.S.37:1285.A.(4), R.S. 37:1285.A.(6), and R.S. 1285.A.(30), respectively.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 13:570 (October 1987), amended LR 25:1248 (July 1999), LR 28:2352 (November 2002).

Subchapter C. Registration

**§6513. Eligibility for Registration as a Dispensing
Physician**

A. To be eligible for registration as a dispensing physician, a physician shall, as of the date of the application:

1. possess a current, unrestricted license to practice medicine duly issued by the board;
2. have been in the active practice of medicine for not less than three years following the date on which the physician was awarded a doctor of medicine or doctor of osteopathy degree;
3. not currently be enrolled in a medical residency or other post graduate medical training program; and
4. possess a current, unrestricted license to prescribe, dispense, and administer controlled substances duly issued by the Office of Narcotics and Dangerous Drugs, Department of Health and Human Resources, state of Louisiana, and be currently registered to prescribe, dispense, and administer controlled substances, without restriction, with the Drug Enforcement Administration, United States Department of Justice.

B. - B.6. ...

7. has been denied, had suspended, revoked, restricted, or relinquished, staff or clinical privileges at any hospital or other health care institution while under investigation for, or as a result of, the physician's competency or conduct;

B.8. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, R.S. 37:1201.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 13:570 (October 1987), amended LR 25:1249 (July 1999), LR 28:2352 (November 2002).

John B. Bobear, M.D.
Executive Director

0211#071

RULE

**Department of Health and Hospitals
Board of Practical Nurse Examiners**

Discipline, Licensure, and Temporary Permits
(LAC 46:XLVII.303, 306, 1703, 1705, and 1707)

The Board of Practical Nurse Examiners has amended LAC 46:XLVII.101 et seq., in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Practical Nursing Practice Act, R.S. 37:961-979.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part XLVII. Nurses

Subpart 1. Practical Nurses

Chapter 3. Board of Practical Nurse Examiners

§303. Additional Duties and Powers of the Board

A. - A.2. ...

3. determine the passing score for the practical nursing licensure examination of initial licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:193 (April 1977), amended LR 10:335 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 26:2614 (November 2000), LR 28:2353 (November 2002).

§306. Rules and Adjudication and License Suspension and Revocation Proceedings

A. - B. ...

C. Communications received by the board expressing such allegation(s) shall be privileged, confidential, and shall not be revealed to any person except when such document(s) are offered for evidence in a formal hearing.

D. The allegation(s) shall be investigated by the executive director, his/her designee, and/or staff. Any information and/or documents generated pursuant to such investigation of the allegation(s) shall be considered the work product of the board and shall be privileged, confidential, and shall not be revealed to any person except when such investigative information and/or documents are offered for evidence in a formal hearing.

E. Unless precluded by law, informal disposition may be made of any case of adjudication by stipulation, agreed settlement, consent order, or default. A consent order or agreed settlement shall be presented to the board for approval before it becomes binding.

F. If a matter is not concluded by informal proceedings and a formal hearing is deemed necessary by the executive director, a formal hearing shall be scheduled before a hearing officer designated by the board. A decision to initiate a formal complaint by the board expressing the allegation(s) and specific violation(s) of R.S. 37:961-979 may be made if one or more of the following conditions exist:

1. the allegation(s) are sufficiently serious;
2. the licensee fails to respond to the board's correspondence concerning the allegation(s);
3. the licensee's response to the board's correspondence is insufficient, unsatisfactory, or fails to be convincing that no action is warranted;
4. an informal proceeding has failed to resolve all of the issues or allegation(s).

G. Formal hearing procedures shall commence with the filing of a formal complaint by the board. The complaint shall include:

1. a statement of the time, place and nature of the hearing;
2. a statement of the legal authority and jurisdiction under which the hearing is to be held;
3. a reference to the particular sections of R.S. 37:961 et seq., and/or rules involved;

4. A short and plain statement of the matters asserted. If the board is unable to state the matters in detail at the time the complaint is served, the initial complaint may be limited to a statement of the issues involved. Thereafter, upon request, a more definite and detailed statement shall be furnished.

H. The formal complaint shall be sent by certified mail, a minimum of 20 days prior to the hearing date, to the last known address of the accused licensee. If the mailing is not returned to the board, it is assumed to have been received by said licensee as it is the licensee's obligation and duty to keep the board informed of his/her whereabouts.

I. The licensee shall return his/her response to the complaint to the board within 10 days or shall be deemed to have waived his/her right to a hearing. In response, the licensee shall either deny or admit the allegations of the complaint and may either:

1. appear for the scheduled hearing;
2. submit a written response to the hearing officer to be presented at the hearing in lieu of the licensee's live testimony; or
3. waive his/her right to a hearing.

J. If the licensee waives his/her right to a hearing or does not respond in writing within the time allotted, the hearing officer shall decide the case forthwith. The hearing officer shall make specific findings of fact, conclusions of law, and make recommendations to the board.

K. Opportunity shall be afforded to all parties to respond and present evidence on all issues of fact involved and argument on all issues of law and policy involved and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

L. Except for conditions of extreme emergency, motions requesting the continuance of a formal hearing must be received by the board at least five days prior to the date fixed for a formal hearing. Such motion must express the specific reason(s) and show good cause why a continuance is warranted and be relevant for due process.

M. Discovery

1. Prior to a formal hearing, an accused licensee shall have the right to retain an attorney to represent his/her interest before, during, and after the proceedings. All costs and/or expenses incurred by a licensee as a result of his/her exercise of said right shall be the sole responsibility and obligation of the licensee.

2. Prior to a formal hearing, the executive director or his/her designee will, upon written request received by the board at least five days prior to the formal hearing, issue subpoenas on behalf of the board and/or the accused licensee. Such subpoenas include or are for the purpose of:

- a. requiring that a person appear and give testimony in the formal hearing; and
- b. subpoena duces tecum, requiring that a person produce books, records, correspondence, or other materials over which he/she has control providing:
 - i. the information requested is reasonable in terms of amount; and
 - ii. the scope of the information requested is limited to documentary material that is relevant to the proceeding;

iii. the information requested does not include those documents referred to in §306.C-D; and

iv. the requesting party deposits with the board a sum of money sufficient to pay all fees and expenses to which a witness in the proceedings is entitled pursuant to R.S. 13:3661 and R.S. 13:3671.

3. Prior to a formal hearing, an accused licensee shall, upon written notice received by the board at least five days prior to said hearing, be given a list of all witnesses the board will or may call to give testimony during a formal hearing.

4. Prior to a formal hearing, an accused licensee, his/her attorney, or any party representing his/her interest is prohibited from having any contact whatsoever with any witness which will or may be called to give testimony in a formal hearing.

5. Depositions for the purpose of discovery are not permissible and may only be allowed for the perpetuation of a witness's testimony upon good showing to the board that a witness will be unavailable to appear in person at a formal hearing. All costs of a deposition are borne by the requesting party.

6. Motions may be made before, during, and/or after a formal hearing. All motions made before and after a formal hearing shall be made in writing and in a timely manner in accordance with the nature of the request. Motions made during a formal hearing shall be made orally, as they become a part of the transcript of the proceeding.

N. During a formal hearing, the licensee or his/her attorney shall be afforded the opportunity to present documentary, visual, physical or illustrative evidence and to cross-examine witnesses as well as call witnesses to give oral testimony on behalf of the licensee. All testimony given during a formal hearing shall be under oath and before a certified stenographer.

O. The record of the proceeding shall be retained until such time for any appeal has expired or until an appeal has been concluded. The record of the proceeding shall not be transcribed until such time as a party to the proceeding so requests, and the requesting party pays for the cost of the transcript.

P. After the hearing is concluded, the hearing officer shall issue a report containing his/her findings of fact, conclusions of law and recommendations. This report shall be presented to the board.

Q. The board shall make a decision based on the hearing officer's report and determine what sanctions, if any, should be imposed and issue an appropriate order with respect thereto. This order of the board shall be sent to the licensee by certified mail.

R. Sanctions imposed by the board may include reprimand, probation, suspension, revocation, as well as penalties provided under R.S. 37:961 et seq., as amended or any combination thereof.

1. Reprimand. May include a personal conference between the licensee and the executive director and/or a letter to the licensee regarding the incident or incidents which have been brought to the board's attention and which may or may not be determined to warrant a hearing.

2. Probation. Will include stipulations which may be imposed by the board as a result of the findings of facts of a hearing and the order shall clarify the obligations of the

licensee through a specified period of time. A licensee who is placed on probation by the board may practice practical nursing in the state of Louisiana provided the probation terms are met.

3. Suspension. A license to practice practical nursing in the state of Louisiana may be withheld by the board as a result of the findings of facts presented in a hearing. The time of suspension may be a definite stated period or an indefinite term. A licensee whose license is suspended may not practice practical nursing in the state of Louisiana during the suspension period so designated.

a. Definite time of suspension shall be stipulated by the board in the order to the licensee. Upon termination of the time period the licensee shall be entitled to receive his/her license upon payment of the required fee and upon documented compliance with the conditions which may have been imposed by the board at the time of the original order.

b. If a license is suspended for an indefinite term, the licensee may petition for reinstatement of his/her license only after one calendar year has lapsed from the date of the original order. The board may terminate the suspension and reinstate such license after a hearing is held and the board determines that the cause/causes for the suspension no longer exist or that intervening circumstances have altered the condition leading to the suspension. If reinstatement is granted the licensee shall pay the required reinstatement fee.

4. Revocation. A license to practice practical nursing in the state of Louisiana may be withdrawn by the board. A person whose license is so revoked shall never again be allowed to practice practical nursing in the state.

S. A petition by a party for reconsideration or rehearing must be in proper form and filed within 30 days after notification of the board's decision. The petition shall set forth the grounds for the rehearing, which include one or more of the following:

1. the board's decision is clearly contrary to the law and the evidence;

2. there is newly discovered evidence which was not available to the board or the licensee at the time of the hearing and which may be sufficient to reverse the board's action;

3. there is a showing that issues not previously considered ought to be examined in order to dispose of the case properly;

4. it would be in the public interest to further consider the issues and the evidence.

T. The grounds for disciplinary proceedings against a licensed practical nurse include, but are not limited to:

1. being guilty of fraud or deceit in procuring or attempting to procure a license to practice practical nursing;

2. being guilty of a crime;

3. being unfit, or incompetent by reason of negligence, habit or other causes;

4. being habitually intemperate or is addicted to the use of habit-forming drugs;

5. being mentally incompetent;

6. practicing practical nursing without being duly licensed to do so by the board;

7. using in connection with his name any designation tending to imply that he is a practical nurse without being duly licensed to practice by the board; or

8. being guilty of unprofessional conduct; unprofessional conduct includes, but is not limited to the following:

- a. failure to practice practical nursing in accordance with the standards normally expected;
- b. failure to utilize appropriate judgment in administering nursing practice;
- c. failure to exercise technical competence in carrying out nursing care;
- d. violating the confidentiality of information or knowledge concerning a patient;
- e. performing procedures beyond the authorized scope of practical nursing;
- f. performing duties and assuming responsibilities within the scope of the definition of practical nursing when competency has not been achieved or maintained, or where competency has not been achieved or maintained in a particular specialty;
- g. improper use of drugs, medical supplies, or patients' records;
- h. misappropriating personal items of an individual or the agency;
- i. falsifying records;
- j. intentionally committing any act that adversely affects the physical or psychosocial welfare of the patient;
- k. delegating nursing care, functions, tasks, or responsibilities to others contrary to regulation;
- l. leaving a nursing assignment without properly notifying appropriate personnel;
- m. failing to report, through the proper channels, facts known regarding the incompetent, unethical, or illegal practice of any health care provider;
- n. being convicted of a crime or offense which reflects the inability of the nurse to practice practical nursing with due regard for the health and safety of clients or patients or enters a plea of guilty or nolo contendere to a criminal charge regardless of final disposition of the criminal proceeding including, but not limited to, expungement or nonadjudication or pardon;
- o. being guilty of moral turpitude;
- p. inappropriate, incomplete or improper documentation;
- q. use of or being under the influence of alcoholic beverages, illegal drugs or drugs which impair judgment while on duty, to include making application for employment;
- r. possess a physical or psychological impairment which interferes with the judgment, skills or abilities required for the practice of practical nursing;
- s. refusal to cooperate with employer's request to submit to a drug screen;
- t. has violated any provisions of R.S. 37:961 et seq. (the practical nursing practice act), as amended or aid or abet therein.

U. The board may, at its discretion, impose a reasonable monetary assessment against the licensee or applicant for licensure for the purpose of defraying expenses of a hearing and/or expenses of the board in monitoring any disciplinary stipulations imposed by order of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:978 and Acts 675 and 827, 1993.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR

20:663 (June 1994), amended LR 26:2614 (November 2000), LR 28:2353 (November 2002).

Chapter 17. Licensure

§1703. Types of Licensure

A. - A.2. ...

3. complete a board approved refresher course if a passing score is not attained within four years of program completion.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969, 37:971 and 37:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:199 (April 1977), LR 10:341 (April 1984), LR 10:915 (November 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1129 (October 1992), repromulgated LR 18:1263 (November 1992), LR 28:2355 (November 2002).

§1705. Temporary Permit

A. A temporary permit to practice as a practical nurse in Louisiana may be issued as follows.

1. A temporary permit may be issued to graduates of approved or accredited practical nursing programs in Louisiana before the first writing of the licensure examination which permit shall expire upon the date of licensure of that examination and which shall not be subject to extension or renewal under any circumstances - including reentry and completion of a program in practical nursing, providing the application for licensure and the specified fee have been submitted by the applicant and an official transcript has been submitted by the institution from which he/she graduated.

A.2 - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:976.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:199 (April 1977), amended LR 5:65 (March 1979), LR 10:341 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1130 (October 1992), repromulgated LR 18:1263 (November 1992), LR 28:2355 (November 2002).

§1707. Retirement from Practice

A. - B.3. ...

C. Review Courses. Licensees or applicants for licensure in Louisiana who have been out of practice for four or more years shall be required to successfully complete a refresher course approved by the board. Said course shall have a clinical component of a minimum of 60 hours. Special student permits may be issued by the board to participants in such courses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969, 37:972-975, 37:977, 37:978 and 37:979.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:200 (April 1977), amended LR 10:342 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1130 (October 1992), repromulgated LR 18:1263 (November 1992), amended LR 26:2614 (November 2000), LR 28:2355 (November 2002).

Claire Doody Glaviano
Executive Director

0211#085

RULE

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

Adult Day Health Care Services
Prospective Payment System
Reimbursement Methodology
(LAC 50:II.10909 and 10939)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts 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. This final Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTHC MEDICAL ASSISTANCE

Part II. Medical Assistance Program

Subpart 3. Standards for Payment

Chapter 109. Standards for PaymentC Adult Day Health Care Services

§10909. Provider Agreement

A. - E.23. ...

F. DHH agrees to make payment to the provider on behalf of eligible recipients if the provider is enrolled in the Medicaid Program as an ADHC center.

G. - G.5. ...

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 Human Resources, Office of Family Security, LR 11:623 (June 1985), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 13:181 (March 1987), LR 23:1150 (September 1997), LR 28:2356 (November 2002).

§10939. Prospective Payment System

A. General Provisions (Effective January 1, 2003 and thereafter)

1. Development. Adult Day Health Care (ADHC) providers shall be reimbursed a per diem rate for services provided under a prospective payment methodology. The system shall be designed in a manner that recognizes and reflects the cost of direct care services provided. The reimbursement methodology is designed to improve the quality of care for all adult day health care recipients by ensuring that direct care services are provided at an acceptable level while fairly reimbursing the providers.

2. The prospective payment methodology establishes statewide rates for services provided with components for direct care costs, care related costs, administrative and operating costs, and property costs.

3. Cost Centers

a. Direct Care Costs. This component reimburses for in-house and contractual direct care staffing and fringe benefits and direct care supplies.

b. Care Related Costs. This component reimburses for in-house and contractual salaries and fringe benefits for activity and social services staff, raw food costs and care related supplies for activities and social services.

c. Administrative and Operating Costs. This component reimburses for in-house or contractual salaries

and related benefits for administrative, dietary, housekeeping and maintenance staff. Also included are:

- i. utilities;
- ii. accounting;
- iii. dietary;
- iv. housekeeping and maintenance supplies; and
- v. all other administrative and operating type expenditures.

d. Property. This component reimburses for depreciation, interest on capital assets, lease expenses, property taxes and other expenses related to capital assets.

4. Rate Setting

a. Direct Care Costs. A statewide base rate for direct care is computed at 115 percent of the median facility per diem direct care costs submitted on all full year cost reports except those for which an audit disclaimer has been issued. Direct care costs are trended forward using the Consumer Price Index (CPI)C Medical Services.

b. Care Related Costs. A statewide base rate for care related costs is computed at 105 percent of the median facility per diem care related costs submitted on all full year cost reports except those for which an audit disclaimer has been issued. Care related costs are trended forward using the CPI C All Items.

c. Administrative and Operating Costs (OAC). A statewide base rate for administrative and operating costs is computed at 105 percent of the median facility per diem administrative and operating costs submitted on all acceptable cost reports except for those for which an audit disclaimer has been issued and are trended forward using the CPI C All Items.

d. Property. The property rate is computed at the median of property costs submitted on all acceptable full year cost reports. Inflation will not be added to property costs.

e. All trending shall be from the mid-point of the year preceding the cost report year to the midpoint of the year preceding the rate year.

f. Application of an inflationary adjustment to reimbursement rates in non-rebasing years shall apply only when the legislature allocates funds for this purpose.

5. Total Per Diem Rate. The per diem rate is the sum of the rate components.

6. Cost Settlement. The direct care cost component shall be subject to cost settlement. Should an ADHC facility's cost report reveal that the provider did not expend an amount equal to 90 percent of the median cost trended forward for the year for direct care services, the Medicaid program will recover the difference between 90 percent of the median cost trended forward and the actual direct care amount expended.

B. Cost Reporting

1. Providers of adult day health care services are required to file annual cost reports of all reasonable and allowable costs. The annual cost reports are the basis for determining reimbursement rates. A copy of all reports and statistical data must be retained by the facility for no less than five years following the date reports are submitted to the Bureau. A chart of accounts and an accounting system on the accrual basis or converted at year end are required in the cost reporting preparation process. The Bureau or its designee will perform desk reviews of the cost reports. In

addition to the desk review, a representative number of the facilities shall be subject to a full-scope, annual on-site audit. All ADHC cost reports shall be filed with a fiscal year from July 1 through June 30.

2. The cost reporting forms and instructions developed by the Bureau must be used by all ADHC facilities participating in the Louisiana Medicaid Program. Hospital based and other provider based ADHC which use Medicare forms for step down in completing their ADHC Medicaid cost reports must submit copies of the applicable Medicare cost report forms. All amounts must be rounded to the nearest dollar and must foot and cross foot. Only per diem cost amounts will not be rounded. Cost reports submitted that have not been rounded in accordance with this policy will be returned and will not be considered as received until they are resubmitted.

3. Annual Reporting. Cost reports are to be filed on or before the last day of September following the close of the reporting period. Should the due date fall on a Saturday, Sunday, or an official state or federal holiday, the due date shall be the following business day. The cost report forms and schedules must be filed in duplicate together with two copies of the following documents:

a. a working trial balance that includes the appropriate cost report line numbers to which each account can be traced. This may be done by writing the cost report category and line numbers by each ending balance or by running a trial balance in cost report category and line number order that totals the account;

b. a depreciation schedule. If the facility has different book and Medicaid depreciation schedules, copies of both depreciation schedules must be submitted. If the facility has home office costs, copies of the home office depreciation schedules must also be submitted. All hospital based facilities must submit two copies of a depreciation schedule that clearly shows and totals assets that are hospital only, ADHC only and shared assets;

c. an amortization schedule(s), if applicable;

d. a schedule of adjustment and reclassification entries;

e. a narrative description of purchased management services or a copy of contracts for managed services, if applicable;

f. a narrative description or a copy of the contracts for management services provided by a related party or home office, a description of the basis used to allocate the costs to providers of the group and to nonprovider activities and copies of the cost allocation worksheet, if applicable. Costs included that are for related management/home office costs must also be reported on a separate cost report that includes an allocation schedule;

g. all allocation worksheets must be submitted by hospital-based facilities. The Medicare worksheets that must be attached by facilities using the Medicare forms for allocation are:

- i. A;
- ii. A-6;
- iii. A-7, Parts I, II, and III;
- iv. A-8;
- v. A-8-1;
- vi. B, Part 1; and
- vii. B-1.

4. Each copy of the cost report must have the original signatures of an officer or facility administrator on the certification. The cost report and related documents must be submitted to the address indicated on the cost report instruction form. In order to avoid a penalty for delinquency, cost reports must be postmarked on or before the due date.

5. When it is determined upon initial review for completeness that an incomplete or improperly completed cost report has been submitted, the provider will be notified. The provider will be allowed a specified amount of time to submit the requested information without incurring the penalty for a delinquent cost report. For cost reports that are submitted by the due date, 10 working days from the date of the provider's receipt of the request for additional information will be allowed for the submission of the additional information. For cost reports that are submitted after the due date, five working days from the date of the provider's receipt of the request for additional information will be allowed for the submission of the additional information. An exception exists in the event that the due date comes after the specified number of days for submission of the requested information. In these cases, the provider will be allowed to submit the additional requested information on or before the due date of the cost report. If requested additional information has not been submitted by the specified date, a second request for the information will be made. Requested information that is not received after the second request may not be subsequently submitted and shall not be considered for reimbursement purposes. An appeal of the disallowance of the costs associated with the requested information may not be made. Allowable costs will be adjusted to disallow any expenses or cost findings that are not submitted.

6. Accounting Basis. The cost report must be prepared on the accrual basis of accounting. If a facility is on a cash basis, it will be necessary to convert from a cash basis to an accrual basis for cost reporting purposes. Particular attention must be given to an accurate accrual of all costs at the year end for the equitable distribution of costs to the applicable period. Care must be given to the proper allocation of costs for contracts to the period covered by such contracts. Amounts earned although not actually received and amounts owed to creditors but not paid must be included in the reporting period.

7. Supporting Information. Providers are required to maintain adequate financial records and statistical data for proper determination of reimbursable costs. Financial and statistical records must be maintained by the facility for five years from the date the cost report is submitted to the Bureau. Cost information must be current, accurate and in sufficient detail to support amounts reported in the cost report. This includes all ledgers, journals, records, and original evidences of cost (canceled checks, purchase orders, invoices, vouchers, inventories, time cards, payrolls, bases for apportioning costs, etc.) that pertain to the reported costs. Census data reported on the cost report must be supportable by daily census records. Such information must be adequate and available for auditing.

8. Nonacceptable Descriptions. "Miscellaneous," "Other" and "Various," without further detailed explanation, are not acceptable descriptions for cost reporting purposes. If any of these are used as descriptions in the cost report, a

request for information will not be made and the related line item expense will be automatically disallowed. The provider will not be allowed to submit the proper detail of the expense at a later date, and an appeal of the disallowance of the costs may not be made. (See §10939.B.10.c.xliii)

9. Exceptions. Limited exceptions to the cost report requirements will be considered on an individual provider basis upon written request from the provider to the Bureau of Health Services Financing, Rate and Audit Review Section. If an exception is allowed, providers must attach a statement describing fully the nature of the exception for which prior written permission was requested and granted. Exceptions which may be allowed with written approval are as follows.

a. For the initial reporting period only, the provider may allocate costs to the various cost centers on a reasonable basis if the required itemized cost breakdown is not available.

b. If the center has been purchased, leased or has effected major changes in the accounting system as an ongoing concern within the reporting period, a partial year cost report may be filed in lieu of the required 12-month report.

c. If the center experiences unavoidable difficulties in preparing the cost report by the prescribed due date, an extension may be requested prior to the due date. Requests for exception must contain a full statement of the cause of the difficulties that rendered timely preparation of the cost report impossible.

10. Cost Categories Included in the Cost Report

a. Direct Care (DC) Costs

i. Salaries, Aides **C**gross salaries of certified nurse aides and nurse aides in training.

ii. Salaries, LPNs **C**gross salaries of non-supervisory licensed practical nurses and graduate practical nurses.

iii. Salaries, RNs **C**gross salaries of non-supervisory registered nurses and graduate nurses (excluding director of nursing and resident assessment instrument coordinator).

iv. Salaries, Social Services **C**gross salaries of non-supervisory licensed social services personnel providing medically needed social services to attain or maintain the highest practicable physical, mental, or psychosocial well being of the residents.

v. Salaries, Activities **C**gross salaries of non-supervisory activities/recreational personnel providing an ongoing program of activities designed to meet, in accordance with the comprehensive assessment, the interest and the physical, mental, and psychosocial well-being of the residents.

vi. Payroll Taxes **C**cost of employer's portion of Federal Insurance Contribution Act (FICA), Federal Unemployment Tax Act (FUTA), State Unemployment Tax Act (SUTA), and Medicare tax for direct care employees.

vii. Group Insurance, DCC **C**cost of employer's contribution to employee health, life, accident and disability insurance for direct care employees.

viii. Pensions, DCC **C**cost of employer's contribution to employee pensions for direct care employees.

ix. Uniform Allowance, DCC **C**employer's cost of uniform allowance and/or uniforms for direct care employees.

x. Worker's Comp, DCC **C**cost of worker's compensation insurance for direct care employees.

xi. Contract, Aides **C**cost of aides through contract that are not facility employees.

xii. Contract, LPNs **C**cost of LPNs and graduate practical nurses hired through contract that are not facility employees.

xiii. Contract, RNs **C**cost of RNs and graduate nurses hired through contract that are not facility employees.

xiv. Drugs, Over-the-Counter and Legend **C**cost of over-the-counter and legend drugs provided by the facility to its residents. This is for drugs not covered by Medicaid.

xv. Medical Supplies **C**cost of patient-specific items of medical supplies such as catheters, syringes and sterile dressings.

xvi. Medical Waste Disposal **C**cost of medical waste disposal including storage containers and disposal costs.

xvii. Other Supplies, DCC **C**cost of items used in the direct care of residents which are not patient-specific such as prep supplies, alcohol pads, betadine solution in bulk, tongue depressors, cotton balls, thermometers, and blood pressure cuffs.

xviii. Allocated Costs, Hospital Based **C**the amount of costs that have been allocated through the step-down process from a hospital or state institution as direct care costs when those costs include allocated overhead.

xix. Total Direct Care Costs **C**sum of the above line items.

b. Care Related Costs

i. Salaries **C**gross salaries for care related supervisory staff including supervisors or directors over nursing, social service and activities/recreation.

ii. Salaries, Dietary **C**gross salaries of kitchen personnel including dietary supervisors, cooks, helpers and dishwashers.

iii. Payroll Taxes **C**cost of employer's portion of Federal Insurance Contribution Act (FICA), Federal Unemployment Tax Act (FUTA), State Unemployment Tax Act (SUTA), and Medicare tax for care related employees.

iv. Group Insurance, CRC **C**cost of employer's contribution to employee health, life, accident and disability insurance for care related employees.

v. Pensions, CRC **C**cost of employer's contribution to employee pensions for care related employees.

vi. Uniform Allowance, CRC **C**employer's cost of uniform allowance and/or uniforms for care related employees.

vii. Worker's Comp, CRC **C**cost of worker's compensation insurance for care related employees.

viii. Barber and Beauty Expense **C**the cost of barber and beauty services provided to patients for which no charges are made.

ix. Consultant Fees, Activities **C**fees paid to activities personnel, not on the facility's payroll, for providing advisory and educational services to the facility.

x. Consultant Fees, Nursing **C**fees paid to nursing personnel, not on the facility's payroll, for providing advisory and educational services to the facility.

xi. Consultant Fees, Pharmacy **C**fees paid to a registered pharmacist, not on the facility's payroll, for providing advisory and educational services to the facility.

xii. Consultant Fees, Social WorkerCfees paid to a social worker, not on the facility's payroll, for providing advisory and educational services to the facility.

xiii. Consultant Fees, TherapistsCfees paid to a licensed therapist, not on the facility's payroll, for providing advisory and educational services to the facility.

xiv. Food, RawCcost of food products used to provide meals and snacks to residents. Hospital based facilities must allocate food based on the number of meals served.

xv. Food, SupplementsCcost of food products given in addition to normal meals and snacks under a doctor's orders. Hospital based facilities must allocate food-supplements based on the number of meals served.

xvi. Supplies, CRCthe costs of supplies used for rendering care related services to the patients of the facility. All personal care related items such as shampoo and soap administered by all staff must be included on this line.

xvii. Allocated Costs, Hospital BasedCthe amount of costs that have been allocated through the step-down process from a hospital or state institution as care related costs when those costs include allocated overhead.

xviii. Total Care Related CostsCthe sum of the care related cost line items.

c. Administrative and Operating Costs (AOC)

i. Salaries, AdministratorCgross salary of administrators excluding owners. Hospital based facilities must attach a schedule of the administrator's salary before allocation, the allocation method, and the amount allocated to the nursing facility.

ii. Salaries, Assistant AdministratorCgross salary of assistant administrators excluding owners.

iii. Salaries, HousekeepingCgross salaries of housekeeping personnel including housekeeping supervisors, maids and janitors.

iv. Salaries, LaundryCgross salaries of laundry personnel.

v. Salaries, MaintenanceCgross salaries of personnel involved in operating and maintaining the physical plant, including maintenance personnel or plant engineers.

vi. Salaries, DriversCgross salaries of personnel involved in transporting clients to and from the facility.

vii. Salaries, Other AdministrativeCgross salaries of other administrative personnel including bookkeepers, receptionists, administrative assistants and other office and clerical personnel.

viii. Salaries, Owner or Owner/AdministratorCgross salaries of all owners of the facility that are paid through the facility.

ix. Payroll TaxesCcost of employer's portion of Federal Insurance Contribution Act (FICA), Federal Unemployment Tax Act (FUTA), State Unemployment Tax Act (SUTA), and Medicare tax for administrative and operating employees.

x. Group Insurance, AOCCcost of employer's contribution to employee health, life, accident and disability insurance for administrative and operating employees.

xi. Pensions, AOCCcost of employer's contribution to employee pensions for administration and operating employees.

xii. Uniform Allowance, AOCCemployer's cost of uniform allowance and/or uniforms for administration and operating employees.

xiii. Worker's Compensation, AOCCcost of worker's compensation insurance for administration and operating employees.

xiv. Contract, DietaryCcost of dietary services and personnel hired through contract that are not employees of the facility.

xv. Contract, HousekeepingCcost of housekeeping services and personnel hired through contract that are not employees of the facility.

xvi. Contract, LaundryCcost of laundry services and personnel hired through contract that are not employees of the facility.

xvii. Contract, MaintenanceCcost of maintenance services and persons hired through contract that are not employees of the facility.

xviii. Consultant Fees, DieticianCfees paid to consulting registered dietitians.

xix. Accounting FeesCfees incurred for the preparation of the cost report, audits of financial records, bookkeeping, tax return preparation of the adult day health care facility and other related services excluding personal tax planning and personal tax return preparation.

xx. Amortization Expense, Non-CapitalCcosts incurred for legal and other expenses when organizing a corporation must be amortized over a period of 60 months. Amortization of costs attributable to the negotiation or settlement of the sale or purchase of any capital asset on or after July 18, 1984, whether by acquisition or merger, for which any payment has previously been made are non-allowable costs. If allowable cost is reported on this line, an amortization schedule must be submitted with the cost report.

xxi. Bank Service ChargesCfees paid to banks for service charges, excluding penalties and insufficient funds charges.

xxii. Dietary SuppliesCcosts of consumable items such as soap, detergent, napkins, paper cups, straws, etc., used in the dietary department.

xxiii. DuesCdues to one organization are allowable.

xxiv. Educational Seminars and TrainingCthe registration cost for attending educational seminars and training by employees of the facility and costs incurred in the provision of in-house training for facility staff, excluding owners or administrative personnel

xxv. Housekeeping SuppliesCcost of consumable housekeeping items including waxes, cleaners, soap, brooms and lavatory supplies.

xxvi. Insurance, Professional Liability and OtherCincludes the costs of insuring the facility against injury and malpractice claims and the cost of vehicle insurance.

xxvii. Interest Expense, Non-Capital and VehiclesCinterest paid on short term borrowing for facility operations and on vehicle loans.

xxviii. Laundry SuppliesCcost of consumable goods used in the laundry including soap, detergent, starch and bleach.

xxix. Legal Fees Only actual and reasonable attorney fees incurred for non-litigation legal services related to patient care are allowed.

xxx. Linen Supplies Cost of sheets, blankets, pillows, gowns, underpads and diapers (reusable and disposable).

xxxi. Miscellaneous Costs incurred in providing facility services that cannot be assigned to any other line item on the cost report. Examples of miscellaneous expense are small equipment purchases, all employees' physicals and shots, nominal gifts to all employees, such as a turkey or ham at Christmas, allowable advertising, and flowers purchased for the enjoyment of the clients. Items reported on this line must be specifically identified.

xxxii. Management Fees and Home Office Costs the cost of purchased management services or home office costs incurred that are allocable to the provider. Costs included that are for related management/home office costs must also be reported on a separate cost report that includes an allocation schedule.

xxxiii. Non-Emergency Medical Transportation the cost of purchased non-emergency medical transportation services including, but not limited to, payments to employees for use of personal vehicle, ambulance companies and other transportation companies for transporting patients of the facility.

xxxiv. Office Supplies and Subscriptions Cost of consumable goods used in the business office such as pencils, paper and computer supplies; cost of printing forms and stationery including but not limited to, nursing and medical forms, accounting and census forms, charge tickets, facility letterhead and billing forms; cost of subscribing to newspapers, magazines and periodicals.

xxxv. Postage Cost of postage, including stamps, metered postage, freight charges and courier services.

xxxvi. Repairs and Maintenance supplies and services, including electricians, plumbers, extended service agreements, etc., used to repair and maintain the facility building, furniture and equipment except vehicles. This includes computer software maintenance.

xxxvii. Taxes and Licenses the cost of taxes and licenses paid that are not included on any other line on Form 6. This includes tags for vehicles, licenses for facility staff (including nurse aide re-certifications) and buildings.

xxxviii. Telephone and Communications Cost of telephone services, WATS lines and fax services.

xxxix. Travel Cost of travel (airfare, lodging, meals, etc.) by the administrator and other authorized personnel to attend professional and continuing educational seminars and meetings or to conduct facility business. Commuting expenses and travel allowances are not allowable.

xl. Vehicle Expenses vehicle maintenance and supplies, including gas and oil.

xli. Utilities Cost of water, sewer, gas, electric, cable TV and garbage collection services.

xlii. Allocated Costs, Hospital Based Costs that have been allocated through the step-down process from a hospital as administrative and operating costs.

xliii. Total Administrative and Operating Costs

d. Property and Equipment

i. Amortization Expense, Capital legal and other costs incurred when financing the facility must be amortized

over the life of the mortgage. Amortization of goodwill is not an allowable cost. Amortization of costs attributable to the negotiation or settlement of the sale or purchase of any capital asset on or after July 18, 1984, whether by acquisition or merger, for which any payment has previously been made are non-allowable costs. If allowable cost is reported on this line, an amortization schedule must be submitted with the cost report.

ii. Depreciation Depreciation on the facility's buildings, furniture, equipment, leasehold improvements and land improvements.

iii. Interest Expense, Capital interest paid or accrued on notes, mortgages, and other loans, the proceeds of which were used to purchase the facility's land, buildings and/or furniture and equipment, excluding vehicles.

iv. Property Insurance Cost of fire and casualty insurance on facility buildings and equipment, excluding vehicles. Hospital-based facilities and state-owned facilities must allocate property insurance based on the number of square feet.

v. Property Taxes taxes levied on the facility's buildings and equipment, excluding vehicles. Hospital based facilities and state owned facilities must allocate property insurance based on the number of square feet.

vi. Rent, Building Cost of leasing the facility's real property.

vii. Rent, Furniture and Equipment Cost of leasing the facility's furniture and equipment, excluding vehicles.

viii. Lease, Automotive Cost of leases for vehicles used for patient care. A mileage log must be maintained. If a leased vehicle is used for both patient care and personal purposes, cost must be allocated based on the mileage log.

ix. Allocated Costs, Hospital Based Costs that have been allocated through the step-down process from a hospital or state institution as property costs when those costs include allocated overhead.

x. Total Property and Equipment.

11. Non-Allowable Costs. Costs that are not based on the reasonable cost of services covered under Medicare and are not related to the care of beneficiaries are considered non-allowable costs.

a. Reasonable cost does not include the following:

i. costs not related to client care;

ii. costs specifically not reimbursed under the program;

iii. costs that flow from the provision of luxury items or services (items or services substantially in excess or more expensive than those generally considered necessary for the provision of the care);

iv. costs that are found to be substantially out of line with other centers that are similar in size, scope of services and other relevant factors;

v. cost exceeding what a prudent and cost-conscious buyer would incur to purchase the goods or services.

b. General non-allowable costs:

i. services for which Medicaid recipients are charged a fee;

ii. depreciation of non-client care assets;

iii. services that are reimbursable by other state or federally funded programs;

iv. goods or services unrelated to client care;

- v. unreasonable costs.
- c. Specific Non-Allowable Costs (This is not an all inclusive listing.)
 - i. Advertising-costs of advertising to the general public that seeks to increase patient utilization of the ADHC center.
 - ii. Bad Debts—accounts receivable that are written off as not collectible.
 - iii. Contributions—amounts donated to charitable or other organizations.
 - iv. Courtesy allowances.
 - v. Director's fees.
 - vi. Educational costs for clients.
 - vii. Gifts.
 - viii. Goodwill or interest (debt service) on goodwill.
 - ix. Costs of income producing items such as fund raising costs, promotional advertising, or public relations costs and other income producing items.
 - x. Income taxes, state and federal taxes on net income levied or expected to be levied by the federal or state government.
 - xi. Insurance, Officers—cost of insurance on officers and key employees of the center when the insurance is not provided to all employees.
 - xii. Judgments or settlements of any kind.
 - xiii. Lobbying costs or political contributions, either directly or through a trade organization.
 - xiv. Non-client entertainment.
 - xv. Non-Medicaid Related Care Costs—costs allocated to portions of a facility that are not licensed as the reporting ADHC or are not certified to participate in Title XIX.
 - xvi. Officers' life insurance with the center or owner as beneficiary.
 - xvii. Payments to the parent organization or other related party.
 - xviii. Penalties and Sanctions—penalties and sanctions assessed by the Centers for Medicare and Medicaid Services, the Internal Revenue Services or the State Tax Commission; insufficient funds charges.
 - xix. Personal comfort items.
 - xx. Personal use of vehicles.
- C. Provider Reimbursement
 - 1. Cost Determination Definitions
 - a. Indices
 - i. CPI, All Items—the Consumer Price Index for All Urban Consumers—South Region (All items line) as published by the United States Department of Labor.
 - ii. CPI, Medical Services—the Consumer Price Index for All Urban Consumers—South Region (Medical Services line) as published by the United States Department of Labor.
 - b. Adjustment Factors—the adjustment factor is computed by dividing the value of the index for December of the year preceding the rate year by the value of the index one year earlier (December of the second preceding year).
 - c. Rate Year—the rate year is the period from July 1 through June 30 of the next calendar year. It corresponds with the state fiscal year.
 - d. Base Rate—the base rate is the rate calculated in accordance with §10939.C.2.e plus any base rate adjustments granted in accordance with §10939.C.2.g of this

section which are in effect at the time of calculation of new rates or adjustments.

e. Base Rate Components—The base rate is the summation of the following:

- i. Direct Care.
- ii. Care Related Costs.
- iii. Administrative and Operating Costs.
- iv. Property Costs.

2. Rate Determination

a. Calculation of Base Rate—Rates are calculated from cost report data. Allowable costs include those costs incurred by providers to conform to state licensure and federal certification standards. General cost principles are applied during the desk review and audit process to determine allowable costs. These general cost principles include determining whether the cost is ordinary, necessary, and related to delivery of care; the cost is what a prudent and cost conscious business person would pay for the specific goods or services in the open market in an arm's length transaction; and the cost is for goods or services actually provided to the center. Through the desk review and audit process, adjustments and/or disallowances may be made to a provider's reported costs. "HIM-15," the Medicare Provider Reimbursement Manual, is the final authority for allowable costs unless the Louisiana Department of Health and Hospitals has set a more restrictive policy.

b. Audited and desk reviewed costs for each component are ranked by facility to determine the value of each component at the median.

c. The median costs for each component are multiplied in accordance with §10939.A.4 then by the appropriate economic adjustment factors for each successive year to determine base rate components. For subsequent years, the components thus computed become the base rate components to be multiplied by the appropriate economic adjustment factors, unless they are adjusted as provided in §10939.C.2.g. Application of an inflationary adjustment to reimbursement rates in non-rebasing years shall apply only when the state legislature allocates funds for this purpose. The inflationary adjustment shall be made prorating allocated funds based on the weight of the rate components.

d. The inflated median shall be increased to establish the base rate component as follows.

i. The inflated direct care median shall be multiplied times 115 percent to establish the direct care base rate component.

ii. The inflated care related median shall be multiplied times 105 percent to establish the care related base rate component.

iii. The administrative and operating median shall be multiplied times 105 percent to establish the administrative and operating base rate component.

e. At least every three years, audited and desk reviewed cost report items will be compared to the rate components calculated for the cost report year to insure that the rates remain reasonably related to costs.

f. Formulae. Each cost component shall be calculated as follows.

i. Direct Care Cost Component. Direct care per diem costs from all acceptable full year cost reports shall be arrayed from lowest to highest. The cost of the center at the midpoint of the array shall be the median cost. Should there

be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. The median cost shall be trended forward using the Consumer Price Index for Medical Services. The direct care rate component shall be set at 115 percent of the inflated median.

ii. Care Related Cost Component. Care related per diem costs from all acceptable full year cost reports shall be arrayed from lowest to highest. The cost of the center at the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. The median cost shall be trended forward using the Consumer Price Index for All Items. The care related rate component shall be set at 105 percent of the inflated median.

iii. Administrative and Operating Cost Component. Administrative and operating per diem cost from all acceptable full year cost reports shall be arrayed from lowest to highest. The cost of the center at the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. The median cost shall be trended forward by dividing the value of the CPIC All Items index for December of the year preceding the rate year by the value of the index for the December of the year preceding the cost report year. The administrative and operating rate component shall be set at 105 percent of the inflated median.

iv. Property Cost Component. The property per diem costs from all acceptable full year cost reports shall be arrayed from lowest to highest. The cost of the center at the midpoint of the array shall be the median cost. This will be the rate component. Inflation will not be added to property costs.

g. Parameters and Limitations

i. Method of Calculation. All calculations described in this methodology shall be carried out algebraically.

ii. Rounding. In all calculations, the base rate and the base rate components will be rounded to the nearest one hundredth of a dollar (cent) and the economic adjustment factors will be rounded to four decimal places.

h. Interim Adjustments to Rates. If an unanticipated change in conditions occurs that affects the cost of at least 50 percent of the enrolled ADHC providers by an average of 5 percent or more, the rate may be changed. The Bureau will determine whether or not the rates should be changed when requested to do so by 25 percent or more of the enrolled providers, or an organization representing at least 25 percent of the enrolled providers. The burden of proof as to the extent and cost effect of the unanticipated change will rest with the entities requesting the change. The Bureau, however, may initiate a rate change without a request to do so. Changes to the rates may be one of two types; temporary adjustments or base rate adjustments as described below.

i. Temporary Adjustment. Temporary adjustments do not affect the base rate used to calculate new rates.

(a). Changes reflected in the economic indices. Temporary adjustments may be made when changes which will eventually be reflected in the economic indices, such as a change in the minimum wage, a change in FICA or a utility rate change, occur after the end of the period

covered by the indices, i.e., after the December preceding the rate calculation. Temporary adjustments are effective only until the next annual base rate calculation.

(b). Lump Sum Adjustments. Lump sum adjustments may be made when the event causing the adjustment requires a substantial financial outlay, such as a change in certification standards mandating additional equipment or furnishings. Such adjustments shall be subject to the Bureau's review and approval of costs prior to reimbursement.

ii. Base Rate Adjustment. A base rate adjustment will result in a new base rate component value that will be used to calculate the new rate for the next fiscal year. A base rate adjustment may be made when the event causing the adjustment is not one that would be reflected in the indices.

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 28:2356 (November 2002).

David W. Hood
Secretary

0211#090

RULE

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

**Pharmacy Benefits Management Program
Prior Authorization Process**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts 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 final Rule is adopted 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 implements a prior authorization process with a preferred drug list for certain designated drugs covered under the Medicaid Pharmacy Benefits Management Program. The following provisions shall govern coverage for prescribed medications and/or supplies.

A. General Provisions

The medication must be prescribed by a practitioner who is authorized to prescribe under state law. The National Drug Code (NDC) must be shown on each pharmacy claim form for reimbursement of prescription drugs subject to rebates from manufacturers as mandated by federal law and regulations.

B. Covered Drugs

Coverage of drugs shall be limited to specific drug products authorized for reimbursement by therapeutic category and listed by generic name, strength/unit, NDC, and brand name. Those drug products subject to mandatory coverage as a result of a rebate agreement with the federal government will be covered until written notice is received from the Centers for Medicare and Medicaid Services that

coverage will be terminated. Providers will be given prior notice of termination of coverage as required under federal regulations.

C. Prior Authorization with a Preferred Drug List

As authorized by R.S. 46:153.3.B.(2)(a) and pursuant to 42 U.S.C. s1396r-8, a prior authorization process is established which utilizes a preferred drug list (PDL) for selected therapeutic classes. Drugs included on the PDL are automatically prior authorized. Drugs in those classes that are not included on the PDL shall require prescribers to obtain prior authorization. Providers will be notified of the drugs selected for placement on the PDL by selected therapeutic classes prior to implementation of the prior authorization process and as additional drugs are subsequently added to the list. Lists of covered drug products, including those that require prior authorization, will be maintained in either the Prescription Drug Services Manual, other designated service provider manuals, on the Louisiana Medicaid web site or provider notices.

The prior authorization process provides for a turn-around response by either telephone, mail or electronic communication within 24 hours of receipt of a prior authorization request. In emergency situations, providers may dispense at least a 72 hour supply of medication as mandated by R.S. 46:153.3.B.(2)(a) and pursuant to 42 U.S.C. s1396r-8.

The Pharmaceutical and Therapeutics Committee will make recommendations to the Department regarding drugs to be considered for prior authorization. The composition of and appointment to the Pharmaceutical and Therapeutics Committee complies with R.S. 46:153.3.D and 42 U.S.C.s1396r-8.

D. Drugs Excluded from Coverage

As provided by Section 1927(d)(2) of the Social Security Act, the following drugs are excluded from program coverage:

1. experimental drugs;
2. anorexics;
3. cough and cold preparations;
4. cosmetic drugs;
5. compounded prescriptions (mixtures of two or more ingredients the individual drugs will continue to be reimbursed);
6. medications which are included in the reimbursement to a facility, i.e., hospitals, skilled nursing facility for recipients receiving benefits under Part A of Title XVIII, mental hospitals, or some other nursing facilities;
7. non-legend drugs with some exceptions;
8. fertility drugs when used for fertility treatment;
9. vaccines covered in other programs; and
10. DESI Drugs (see E. below).

E. DESI Drugs

Those drugs that are subject to a Notice of Opportunity for Hearing (NOOH), as prescribed by Section 1927(k)(2)(A) of the Social Security Act, for which the Food and Drug Administration has proposed to withdraw from the market because they are "less than effective" or "identical, related, or similar drugs", and are identified as DESI ineffective drugs shall be excluded from coverage.

Implementation 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.

David W. Hood
Secretary

0211#091

RULE

**Department of Insurance
Office of the Commissioner**

**Regulation 60 Advertising of Life Insurance
(LAC 37:XIII.Chapter 41)**

Under the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Insurance amends its existing Regulation 60 relating to the Advertising of Life Insurance.

The amendments are necessary to facilitate regulatory efforts related to advertising over the Internet and other mass communication media, to include additional policy element definitions and to provide for related matters. The amendments affect the following Sections: §§4103, 4105, 4107, 4109, 4111, 4115, 4117 and 4123.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 41. Regulation 60: Advertising of Life Insurance

§4103. Definitions

Advertisement^C

1. material designed to create public interest in life insurance or annuities or in an insurer, or in an insurance producer; or to induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace, or retain a policy including:

a. printed and published material, audiovisual material, and descriptive literature of an insurer or insurance producer used in direct mail, newspapers, magazines, radio and television scripts, billboards, similar displays, the Internet or any other mass communication media;

b. descriptive literature and sales aids of all kinds, authored by the insurer, its insurance producers, or third parties, issued, distributed, or used by such insurer or insurance producer including, but not limited to, circulars, leaflets, booklets, web pages, depictions, illustrations, and form letters;

c. material used for the recruitment, training, and education of an insurer's insurance producers which is designed to be used or is used to induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace, or retain a policy;

d. prepared sales talks, presentations, and material for use by insurance producers.

2. *Advertisement*, for the purpose of these Rules shall not include:

a. communications or materials used within an insurer's own organization and not intended for dissemination to the public;

b. communications with policyholders other than material urging policyholders to purchase, increase, modify, reinstate, or retain a policy;

c. a general announcement from a group or blanket policyholder to eligible individuals on an employment or membership list that a policy or program has been written or arranged; provided the announcement clearly indicates that it is preliminary to the issuance of a booklet explaining the proposed coverage.

Department or Department of Insurance Cthe Louisiana Department of Insurance.

Determinable Policy Elements Celements that are derived from processes or methods that are guaranteed at issue and not subject to company discretion, but where the values or amounts cannot be determined until some point after issue. These elements include the premiums, credited interest rates (including any bonus), benefits, values, non-interest based credits, charges or elements of formulas used to determine any of these. These elements may be described as guaranteed but not determined at issue. An element is considered determinable if it was calculated from underlying determinable policy elements only, or from both determinable and guaranteed policy elements.

Guaranteed Policy Elements Cthe premiums, benefits, values, credits or charges under a policy, or elements of formulas used to determine any of these that are guaranteed and determined at issue.

Insurance Producer C a person (as defined in R.S. 22:1212.D) solicits, negotiates, effects, procures, delivers, renews, continues, or binds policies of insurance for risks residing, located, or intended for issuance in this state.

Insurer Cincludes any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyd's, Fraternal Benefit Society, and any other legal entity which is defined as an insurer in the *Louisiana Insurance Code* or issues life insurance or annuities in this state and is engaged in the advertisement of a policy.

Nonguaranteed Policy Elements Cthe premiums, credited interest rates (including any bonus) benefits, values, non-interest based credits, charges, or elements that are subject to company discretion and are not guaranteed at issue. An element is considered nonguaranteed if any of the underlying nonguaranteed elements are used in its calculation. *Policy* includes any policy, plan, certificate, including a fraternal benefit certificate, contract, agreement, statement of coverage, rider, or endorsement which provides for life insurance or annuity benefits.

Pre-Need Funeral Contract or Prearrangement Can agreement by or for an individual before the individual's death relating to the purchase or provision of specific funeral or cemetery merchandise or services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 22:1225 (December 1996), amended LR 28:2363 (November 2002).

§4105. Applicability

A. These rules shall apply to any life insurance or annuity advertisement intended for dissemination in this state. In variable contracts where disclosure requirements are established pursuant to federal regulation, this regulation shall be interpreted so as to eliminate conflict with federal regulation.

B. Every insurer shall establish, and at all times maintain, a system of control over the content, form, and method of dissemination of all advertisements of its policies. A system of control shall include regular and routine notification, at least once a year, to producers and others authorized by the insurer to disseminate advertisements of the requirement and procedures for company approval prior to the use of any advertisements that is not furnished by the insurer and that clearly sets forth within the notice the most serious consequence of not obtaining the required prior approval. All such advertisements, regardless of by whom written, created, designed, or presented, shall be the responsibility of the insurer, as well as the producer who created or presented the advertisement, provided the insurer shall not be responsible for advertisements that are published in violation of written procedures or guidelines of the insurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 22:1225 (December 1996), amended LR 28:2364 (November 2002).

§4107. Form and Content of Advertisements

A. ...

B. No advertisement shall use the terms investment, investment plan, founder's plan, charter plan, deposit, expansion plan, profit, profits, profit sharing, interest plan, savings, savings plan, private pension plan, retirement plan or other similar terms in connection with a policy in a context or under such circumstances or conditions as to have the capacity or tendency to mislead a purchaser or prospective purchaser of such policy to believe that he will receive, or that it is possible that he will receive, something other than a policy or some benefit not available to other persons of the same class and equal expectation of life.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 22:1225 (December 1996), amended LR 28:2364 (November 2002).

§4109. Disclosure Requirements

A. - C. ...

D. An advertisement shall not use as the name or title of a life insurance policy any phrase which does not include the words *life insurance* unless accompanied by other language clearly indicating it is life insurance. An advertisement shall not use as the name or title of an annuity contract any phrase that does not include the word "annuity" unless accompanied by other language clearly indicating it is an annuity. An annuity advertisement shall not refer to an annuity as a CD annuity, or deceptively compare an annuity to a certificate of deposit.

E. - F. ...

G. An advertisement for a life insurance policy containing graded or modified benefits shall prominently display any limitation of benefits. If the premium is level and coverage decreases or increases with age or duration, such fact shall be prominently disclosed. An advertisement of or for a life insurance policy under which the death benefit varies with the length of time the policy has been in force shall accurately describe and clearly call attention to the amount of minimum death benefit under the policy.

H. ...

I. Premiums

1. - 4. ...

5. An advertisement shall not represent in any way that premium payments will not be required for each year of the policy in order to maintain the illustrated death benefits, unless that is the fact.

6. An advertisement shall not use the term "vanish" or "vanishing premium," or a similar term that implies the policy becomes paid up, to describe a plan using nonguaranteed elements to pay a portion of future premiums.

J. Analogies between a life insurance policy's cash values and savings accounts or other investments and between premium payments and contributions to savings accounts or other investments must be complete and accurate. An advertisement shall not emphasize the investment or tax features of a life insurance policy to such a degree that the advertisement would mislead the purchaser to believe the policy is anything other than life insurance.

K. - M. ...

N. No insurance producer may use terms such as *financial planner*, *investment advisor*, *financial consultant*, or *financial counseling* in such a way as to imply that he or she is generally engaged in an advisory business in which compensation is unrelated to sales, unless such actually is the case. This provision is not intended to preclude persons who hold some form of formal recognized financial planning or consultant designation from using this designation even when they are only selling insurance. This provision also is not intended to preclude persons who are members of a recognized trade or professional association having such terms as part of its name from citing membership, providing that a person citing membership, if authorized only to sell insurance products, shall disclose that fact. This provision does not permit persons to charge an additional fee for services that are customarily associated with the solicitation, negotiation or servicing of policies.

O. Nonguaranteed Policy Elements

1. - 5. ...

6. An advertisement shall not use or describe determinable policy elements in a manner that is misleading or has the capacity or tendency to mislead.

7. An advertisement may describe determinable policy elements as guaranteed but not determinable at issue. This description should include an explanation of how these elements operate, and their limitations, if any.

8. An advertisement may not state or imply that illustrated dividends under either or both a participating policy or pure endowment will be or can be sufficient at any future time to assure without the future payment of premiums, the receipt of benefits, such as a paid-up policy, unless the advertisement clearly and precisely explains the benefits or coverage provided at that time and the conditions required for that to occur.

P. ...

Q. Testimonials, Appraisals, Analysis, or Endorsements by Third Parties

1. - 3. ...

4. When an endorsement refers to benefits received under a policy for a specific claim, the claim date, including

claim number, date of loss and other pertinent information shall be retained by the insurer for inspection for a period of five years after the discontinuance of its use or publication.

R. - S.3. ...

T. Introductory, Initial or Special Offers and Enrollment Periods

1. - 2. ...

3. An advertisement shall not offer a policy which utilizes a reduced initial premium rate in a manner which overemphasizes the availability and the amount of the reduced initial premium. A reduced initial or first year premium may not be described as constituting free insurance for a period of time. When an insurer charges an initial premium that differs in amount from the amount of the renewal premium payable on the same mode, all references to the reduced initial premium shall be followed by an asterisk or other appropriate symbol which refers the reader to that specific portion of the advertisement which contains the full rate schedule for the policy being advertised.

T.4. - W.3. ...

4. Any illustrations, depictions or statements containing or based on determinable policy elements shall likewise set forth with equal prominence comparable illustrations, depictions or statements containing or based on guaranteed policy elements.

X. An advertisement of a life insurance policy or annuity that illustrates nonguaranteed values shall only do so in accordance with current applicable state law relative to illustrating such values for life and annuity contracts.

Y. An advertisement for the solicitation or sale of a pre-need funeral contract or prearrangement, as defined in §4103.H, which is funded or to be funded by a life insurance policy or annuity contract shall adequately disclose the following:

1. ...

2. the nature of the relationship among the insurance producers, the provider of the funeral or cemetery merchandise or services, the administrator and any other person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 22:1225 (December 1996), amended LR 28:2364 (November 2002).

§4111. Identity of Insurer

A. The name of the insurer shall be clearly identified in all advertisements, and if any specific individual policy is advertised, it shall be identified either by form number or other appropriate description. If an application is a part of the advertisement, the name of the insurer shall be shown on the application. However, if an advertisement contains a listing of rates or features that is a composite of several different policies or contracts of different insurers, the advertisement shall so state, shall indicate, if applicable, that not all policies or contracts on which the composite is based may be available in all states, and shall provide a rating of the lowest rated insurer and reference the rating agency, but need not identify each insurer. If an advertisement identifies the issuing insurers, insurance issuer ratings need not be

stated. An advertisement shall not use a trade name, an insurance group designation, name of the parent company of the insurer, name of a particular division of the insurer, service mark, slogan, symbol, or other device or reference without disclosing the name of the insurer, if the advertisement would have the capacity or tendency to mislead or deceive as to the true identity of the insurer or create the impression that a company other than the insurer would have any responsibility for the financial obligation under a policy.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 22:1228 (December 1996), amended LR 28:2365 (November 2002).

§4115. Statements about the Insurer

A. An advertisement shall not contain statements, pictures or illustrations which are false or misleading, in fact or by implication, with respect to the assets, liabilities, insurance in force, corporate structure, financial condition, age or relative position of the insurer in the insurance business. An advertisement shall not contain a recommendation by any commercial rating system unless it clearly defines the scope and extent of the recommendation, including but not limited to, placement of insurer's rating in the hierarchy of the rating system cited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 22:1228 (December 1996), amended LR 28:2366 (November 2002).

§4117. Enforcement Procedures

A. - C. ...

D. In addition to any other penalties provided by the laws of this state, an insurer or producer that violates a requirement of this regulation shall be guilty of a violation of Part XXVI, Unfair Trade Practices, of the Louisiana Insurance Code, which regulates the trade practices on the business of insurance by defining and providing for the determination of all acts, methods, and practices which constitute unfair methods of competition and unfair or deceptive acts and practices in this state, and to prohibit the same.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 22:1228 (December 1996), amended LR 28:2366 (November 2002).

§4123. Effective Date

A. This revised regulation shall become effective upon final publication in the *Louisiana Register* and shall apply to any life insurance or annuity advertisement intended for dissemination in this state on or after the effective date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 22:1229 (December 1996), amended LR 28:2366 (November 2002).

J. Robert Worley
Acting Commissioner

0211#075

RULE

Department of Natural Resources Office of Conservation Executive Division

Fees (LAC 43:XIX.Chapter 7)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Conservation has amended the established fees.

Title 43

NATURAL RESOURCES

Part XIX. Office of ConservationC General Operations

Subpart 2. Statewide Order No. 29-R-02/03

Chapter 7. Fees

§701. Definitions

Application Fee Can amount payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, by industries under the jurisdiction of the Office of Conservation.

Application for Automatic Custody Transfer Can application for authority to measure and transfer custody of liquid hydrocarbons by the use of methods other than customary gauge tanks, as authorized by Statewide Order No. 29-G-1 (LAC 43:XIX.2301 et seq.), or successor regulations.

Application for Commercial Class I Injection Well Can application to construct and/or operate a commercial Class I injection well, as authorized by Statewide Order No. 29-N-1 (LAC 43:XVII.101 et seq.) or Statewide Order No. 29-N-2 (LAC 43:XVII.201 et seq.), or successor regulations.

Application for Commercial Class I Injection Well (Additional Wells) Can application to construct and/or operate additional Class I injection wells within the same filing, as authorized by Statewide Order No. 29-N-1 (LAC 43:XVII.101 et seq.) or Statewide Order No. 29-N-2 (LAC 43:XVII.201 et seq.), or successor regulations.

Application for Commercial Class II Injection Well Can application to construct and/or operate a commercial Class II injection well, as authorized by Statewide Order No. 29-B (LAC 43:XIX.401 et seq.) or successor regulations.

Application for Commercial Class II Injection Well (Additional Wells) Can application to construct and/or operate additional commercial Class II injection wells within the same filing, as authorized by Statewide Order 29-B (LAC 43:XIX.401 et seq.), or successor regulations.

Application for Multiple Completion Can application to multiply complete a new or existing well in separate common sources of supply, as authorized by Statewide Order No. 29-C-4 (LAC 43:1301 et seq.), or successor regulations.

Application for Noncommercial Injection Well Can application to construct and/or operate a Class I, II or III noncommercial injection well, as authorized by Statewide Order Nos. 29-B (LAC 43:XIX.401 et seq.), 29-M (LAC 43:XVII.301 et seq.), 29-N-1 (LAC 43:XVII.101 et seq.), and 29-N-2 (LAC 43:XVII.201 et seq.), or successor regulations.

Application for Permit to Drill (Minerals) Can application to drill in search of minerals, as authorized by R.S. 30:28.

Application for Public Hearing Can application for a public hearing as authorized by R.S. 30:1, et. seq.

Application for Substitute Unit Well Can application for a substitute unit well as authorized by Statewide Order No. 29-K-1 (LAC 43:XIX.2901 et seq.), or successor regulations.

Application for Surface Mining Development Operations Permit Can application to remove coal, lignite, or overburden for the purpose of determining coal or lignite quality or quantity or coal or lignite mining feasibility, as authorized by Statewide Order No. 29-O-1 (LAC 43:XV.101 et seq.), or successor regulations.

Application for Surface Mining Exploration Permit Can application to drill test holes or core holes for the purpose of determining the location, quantity, or quality of a coal or lignite deposit, as authorized in Statewide Order No. 29-O-1 (LAC 43:XV.101 et seq.), or successor regulations.

Application for Surface Mining Permit Can application for a permit to conduct surface coal or lignite mining and reclamation operations, as authorized by Statewide Order No. 29-O-1 (LAC 43:XV.101 et seq.), or successor regulations.

Application for Unit Termination Can application for unit termination as authorized by Statewide Order No. 29-L-2 (LAC 43:XIX.3100 et seq.), or successor regulations.

Application to Amend Permit to Drill (Injection or Other) Can application to alter, amend, or change a permit to drill, construct and/or operate an injection, or other well after its initial issuance, as authorized by R.S. 30:28.

Application to Amend Permit to Drill (Minerals) Can application to alter, amend, or change a permit to drill for minerals after its initial issuance, as authorized by R.S. 30:28.*

*Application to Amend Operator (transfer of ownership) for any multiply completed well which has reverted to a single completion, any non-producing well which is plugged and abandoned within the time frame directed by the Commissioner, as well as any stripper crude oil well or incapable gas well so certified by the Department of Revenue shall not be subject to the application fee provided herein.

Application to Commingle Can application for authority to commingle production of gas and/or liquid hydrocarbons and to use methods other than gauge tanks for allocation, as authorized by Statewide Order No. 29-D-1 (LAC 43:XIX.1500 et seq.), or successor regulations.

Application to Process Form R-4 Application for authorization to transport oil from a lease as authorized by Statewide Order No. 25 (LAC 43:XIX.900 et seq.), or successor regulations.

BOE Annual barrels oil equivalent. Gas production is converted to BOE by dividing annual mcf by a factor of 6.

Capable Gas Natural and casing head gas not classified as incapable gas well gas or incapable oil well gas by the Department of Revenue and Taxation.

Capable Oil Crude oil and condensate not classified as incapable oil or stripper oil by the Department of Revenue.

Class I Well A Class I injection well used to inject hazardous or nonhazardous, industrial, or municipal wastes into the subsurface, which falls within the regulatory purview of Statewide Order Nos. 29-N-1 (LAC 43:XVII.101 et seq.) or 29-N-2 (LAC 43:XVII.201 et seq.), or successor regulations.

Class I Well Fee Can annual fee payable to the Office of Conservation, in a form and schedule prescribed by the

Office of Conservation, on Class I wells in an amount not to exceed \$400,000 for Fiscal Year 2000-2001 and thereafter.

Class II Well A Class II injection well which injects fluids which are brought to the surface in connection with conventional oil or natural gas production, for annular disposal wells, for enhanced recovery of oil or natural gas, and for storage of hydrocarbons. For purposes of administering the exemption provided in R.S. 30:21.B(1)(c), such exemption is limited to operators who operate Class II wells serving a stripper oil well or an incapable gas well certified pursuant to R.S. 47:633 by the Severance Tax Division of the Department of Revenue and Taxation and located in the same field as such Class II well.

Class III Well A Class III injection well which injects for extraction of minerals or energy.

Emergency Clearance Emergency authorization to transport oil from lease.

Production Fee Can annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, by oil and gas operators on capable oil wells and capable gas wells based on a tiered system to establish parity on a dollar amount between the wells. The tiered system shall be established annually by rule on capable oil and capable gas production, including nonexempt wells reporting zero production during the annual base period, in an amount not to exceed \$2,450,000 for Fiscal Year 2002-2003 and thereafter.

Production Well Any well which has been permitted by and is subject to the jurisdiction of the Office of Conservation, excluding wells in the permitted and drilling in progress status, Class II injection wells, liquid storage cavity wells, commercial salt water disposal wells, Class V injection wells, wells which have been plugged and abandoned, wells which have reverted to landowner for use as a fresh water well (Statewide Order No. 29-B, LAC 43:XIX.137.G, or successor regulations), multiply completed wells reverted to a single completion, and stripper oil wells or incapable oil wells or incapable gas wells certified by the Severance Tax Division of the Department of Revenue and Taxation.

Regulatory Fee Can amount payable annually to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, on Class II wells, Class III wells, storage wells, Type A facilities, and Type B facilities in an amount not to exceed \$875,000 for Fiscal Year 2000-2001 and thereafter. No fee shall be imposed on a Class II well of an operator who is also an operator of a stripper crude oil well or incapable gas well certified pursuant to R.S. 47:633 by the severance tax division of the Department of Revenue and located in the same field as such Class II well. Operators of Record, excluding operators of wells and including, but not limited to, operators of gasoline/cycling plants, refineries, oil/gas transporters, and/or certain other activities subject to the jurisdiction of the Office of Conservation are required to pay an annual registration fee of \$105. Such payment is due within the time frame prescribed by the Office of Conservation.

Type A Facility Commercial E&P waste disposal facilities within the State that utilize technologies appropriate for the receipt, treatment, storage, or disposal of oilfield waste solids and liquids for a fee or other consideration, and fall

within the regulatory purview of Statewide Order No. 29-B (LAC 43:XIX.501 et seq.), or successor regulations.

Type B Facility Commercial E&P waste disposal facilities within the State that utilize underground injection technology for the receipt, treatment, storage, or disposal of only produced saltwater, oilfield brine, or other oilfield waste liquids for a fee or other consideration, and fall within the regulatory purview of Statewide Order No. 29-B (LAC 43:XIX.501 et seq.), or successor regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:542 (August 1988), amended LR 15:551 (July 1989), LR 21:1249 (November 1995), LR 24:458 (March, 1998), LR 24:2127 (November 1998), LR 25:1873 (October 1999), LR 26:2302 (October 2000), LR 27:1919 (November 2001), amended by the Department of Natural Resources, Office of Conservation, Executive Division LR:28:2366 (November 2002).

§703. Fee Schedule for Fiscal Year 2002-2003

A. Fee Schedule

Application Fees	Amount
Application for Unit Termination	\$ 252
Application for Substitute Unit Well	\$ 252
Application for Public Hearing	\$ 700
Application for Multiple Completion	\$ 126
Application to Commingle	\$ 252
Application for Automatic Custody Transfer	\$ 252
Application for Noncommercial Injection Well	\$ 252
Application for Commercial Class I Injection Well	\$1,264
Application for Commercial Class I injection Well (Additional Wells)	\$ 631
Application for Commercial Class II Injection Well	\$ 631
Application for Commercial Class II Injection Well (Additional Wells)	\$ 314
Application for Permit to Drill Minerals: 0'-3,000'	\$ 126
Application for Permit to Drill Minerals: 3,001'-10,000'	\$ 631
Application for Permit to Drill Minerals: 10,001'+	\$1,264
Drill Minerals Deeper (> 3,000')	\$ 504
Drill Minerals Deeper (> 10,000')	\$ 632
Application to Amend Permit to Drill Minerals	\$ 126
Application to Amend Permit to Drill Injection or Other	\$ 126
Application for Surface Mining Exploration Permit	\$ 65
Application for Surface Mining Development Operations Permit	\$ 94
Application for Surface Mining Permit	\$2,212
Application to Process Form R-4	\$ 36
Application to Reinstate Suspended Form R-4	\$ 65
Application for Emergency Clearance Form R-4	\$ 65

B. Regulatory Fees

1. Operators of each permitted Type A Facility are required to pay an annual Regulatory Fee of \$5,650 per facility.

2. Operators of each permitted Type B Facility are required to pay an annual Regulatory Fee of \$2,825 per facility.

3. Operators of record of permitted non-commercial Class II injection/disposal wells are required to pay \$ 575 per well.

4. Operators of record of permitted Class III and Storage wells are required to pay \$575 per well.

C. Class I Well Fees. Operators of permitted Class I wells are required to pay \$9,090 per well.

D. Production Fees. Operators of record of capable oil wells and capable gas wells are required to pay according to the following annual production fee tiers:

Annual Production (Barrel Oil Equivalent)	Fee (\$ per Well)
Tier 1	0
Tier 2	1-5,000
Tier 3	5,001-15,000
Tier 4	15,001-30,000
Tier 5	30,001-60,000
Tier 6	60,001-110,000
Tier 7	110,001-9,999,999

E. Exceptions

1. Operators of record of each Class I injection/disposal well and each Type A and B commercial facility that is permitted, but has not yet been constructed, are required to pay an annual fee of 50 percent of the applicable fee for each well or facility.

2. Operators of record of each inactive Type A and B facility which have voluntarily ceased the receipt and disposal of E&P waste and are actively implementing an Office of Conservation approved closure plan are required to pay an annual Regulatory Fee of 50 percent of the annual fee for each applicable Type A or B facility.

3. Operators of record of each inactive Type A or B facility which have voluntarily ceased the receipt and disposal of E&P waste, have completed Office of Conservation approved closure activities and are conducting a post-closure maintenance and monitoring program, are required to pay an annual Regulatory Fee of 25 percent of the annual fee for each applicable Type A or B facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:543 (August 1988), amended LR 15:552 (July 1989), LR 21:1250 (November 1995), LR 24:458 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2304 (October, 2000), LR 27:1920 (November 2001), amended by the Department of Natural Resources, Office of Conservation, Executive Division LR:28:2368 (November 2002).

§705. Failure to Comply

A. Operators of operations and activities defined in §701 are required to timely comply with this Order. Failure to comply within 30 days past the due date of any required fee payment will subject the operator to civil penalties provided in Title 30 of the Louisiana Revised Statutes of 1950, including but not limited to R.S. 30:18.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:1251 (November 1995), LR 24:459 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2304 (October, 2000), LR 27:1921 (November 2001), amended by the Department of Natural Resources, Office of Conservation, Executive Division LR:28:2368 (November 2002).

§707. Severability and Effective Date

A. The fees set forth in §703 are hereby adopted as individual and independent rules comprising this body of rules designated as Statewide Order No. 29-R-02/03, and if any such individual fee is held to be unacceptable, pursuant to R.S. 49:968.H(2), or held to be invalid by a court of law, then such unacceptability or invalidity shall not affect the other provisions of this order which can be given effect

without the unacceptable or invalid provisions, and to that end the provisions of this order are severable.

B. This Order (Statewide Order No. 29-R-02/03) supercedes Statewide Order No. 29-R-01/02.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:1251 (November 1995), LR 24:459 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2305 (October, 2000), LR 27:1921 (November 2001), amended by the Department of Natural Resources, Office of Conservation, Executive Division LR:28:2368 (November 2002).

James H. Welsh
Commissioner

0211#031

RULE

Department of Public Safety and Corrections Office of State Police

Collection, Submission, Receipt, Identification,
Storage and Disposal of DNA Samples CArrestees
(LAC 55:I.2730-2727)

Pursuant to R.S. 15:601 et seq. and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Public Safety and Corrections, Public Safety Services, Office of State Police adopts LAC 55:I.Chapter 27. Notice is further given that the Department has promulgated the following rules and regulations which establish guidelines for the collection, submission, receipt, identification, storage and disposal of DNA samples for arrestees as defined in R.S. 15:601 et seq.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 27. Collection, Submission, Receipt, Identification, Storage and Disposal of DNA Samples

Subchapter B. Arrestees

§2720. Scope, Purpose and Application

A. Scope, Purpose, and Application. To provide rules and regulations governing the collection, submission, receipt, identification, storage and/or disposal of DNA samples for arrestees for a state database/CODIS pursuant to R.S. 15:601 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 28:2369 (November 2002).

§2721. Definitions

AFISCthe Automated Fingerprint Identification System operated by the Department of Public Safety and Corrections, Public Safety Services.

ArresteeCa person arrested for a felony sex offense, other specified offense or any other offense for which a DNA sample must be obtained pursuant to R.S. 15:601 et seq.

Biological SampleCbiological evidence of any nature that is utilized to conduct DNA analysis.

CAJUNCthe Corrections and Justice Unified Network operated by the Department of Public Safety and Corrections.

Crime LaboratoryCLouisiana State Police Crime Laboratory of the Department of Public Safety and Corrections, Public Safety Services.

DepartmentCDepartment of Public Safety and Corrections, Public Safety Services.

DirectorCthe director of the Louisiana State Police Crime Laboratory.

DNACdeoxyribonucleic acid.

DNA AnalysisCDNA typing tests that generate numerical identification information and are obtained from a DNA sample.

DNA DatabaseCthe DNA identification record system maintained and administered by the Director.

DNA Arrestee Database Collection Kit or KitCthe kit provided by the Department for the collection of DNA samples.

DNA RecordCDNA information that is derived from a DNA sample and DNA analysis and is stored in the state DNA database or in CODIS, including all records pertaining to DNA analysis.

DPS & CCDepartment of Public Safety and Corrections.

Evidence TechnicianCindividual authorized by the Director to perform the duties set forth in LAC 55:I.2301 et seq.

FBICFederal Bureau of Investigation within the United States Department of Justice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 28:2369 (November 2002).

§2722. Collection, Submission, and Identification of DNA Samples for Arrestees

A. All biological samples obtained for DNA Analysis from an arrestee shall be collected using an approved Louisiana State Police Crime Laboratory DNA Arrestee Collection kit as supplied by the department.

1. An arrestee collection kit shall contain materials for collection of a biological sample for use in DNA analysis.

2. Each kit shall be numbered sequentially from one kit to the next so that each kit number shall serve as a unique identifier. Any DNA Database Arrestee Collection Kit Envelope, Kit Arrestee Shipping Envelope, DNA Arrestee Database Information Card, DNA Database Collection Card or AFIS or CAJUN Printout identifying the arrestee that may be used as part of the kit shall have the same number as the kit used for collection.

3. All biological samples shall be collected by individuals trained and approved to serve as collectors by the Louisiana State Police Crime Laboratory.

4. The collector shall complete an Arrestee DNA Database Information Card or utilize an AFIS or CAJUN Printout which contains the identifying information of the arrestee when obtaining a sample.

a. In the event an Arrestee DNA Database Information Card is used, the collector shall fill in all requested information as completely as possible.

b. If an AFIS or CAJUN printout is used, identifying information of the arrestee will be contained on the printout.

c. An Arrestee DNA Collection Card or a space on the AFIS or CAJUN printout utilized for all necessary collection information shall be filled out as completely as possible and shall include the following information: name of collector, signature of collector, date and time of sample collection.

5. All biological samples shall be obtained using recognized and approved medical procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 28:2369 (November 2002).

§2723. Security of Biological Samples at Booking Facility

A. All collectors and employees of the booking facility shall ensure that all biological samples taken from arrestees are kept in a secure place within the booking facility until the samples are shipped to the Crime Laboratory pursuant to these regulations. All collectors shall also ensure that pursuant to R.S. 15:617 and any Biological Sample Security Procedures established by the Crime Laboratory, that no unauthorized disclosures regarding any biological sample taken from any arrestee are permitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 28:2370 (November 2002).

§2724. Shipping of DNA Samples for Arrestees

A. DNA samples collected in accordance with these procedures shall be submitted to the Crime Laboratory in person by approved personnel or via delivery service, such as U.S. Mail in accordance with the Crime Laboratory's Quality Manual. The mailing envelope shall be mailed or delivered to the Crime Laboratory after collection to the following address:

Louisiana State Police Crime Laboratory
376 East Airport Drive
Baton Rouge, LA 70806

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 28:2370 (November 2002).

§2725. Record Keeping of DNA Samples for Arrestees

A. The individual who collects each DNA sample shall provide an accurate, up-to-date list of every DNA sample collected each day of collection. Any failed attempts to collect a sample from an arrestee and the reason for the failure (e.g. refusal of arrestee to submit) shall also be indicated. The list will include the following information: the kit number, the arrestee's name, the name of the person collecting the sample and the submitting agency together with any additional data which the director deems necessary. This information shall be forwarded on an audit form provided by the department to the CODIS DNA Unit on a daily basis, via both facsimile and U.S. Mail. If the mailing envelopes are hand delivered to the Crime Laboratory, the

audit form shall accompany the mailing envelopes being delivered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 28:2370 (November 2002).

§2726. Storage of DNA Samples for Arrestees

A. The sealed kits containing DNA samples shall be stored in a dedicated storage area designated by the Crime Laboratory. Access to the sealed kits and to the storage area shall be limited to authorized personnel. Any access to or removal/return of the sealed kit or specimen bags shall be performed in accordance with Crime Lab Evidence and Handling Policies and Procedures. Only authorized personnel shall open a sealed kit or specimen bag and, if applicable shall initial and date the broken seal and shall reseal the kit or specimen bag in accordance with standard forensic operating procedures.

B. DNA samples from arrestees on any arrestee DNA Database Collection Cards and AFIS or CAJUN printouts shall be stored for the time period as prescribed by Louisiana law in a secure storage area unless otherwise required in accordance with R.S. 15:614.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 28:2370 (November 2002).

§2727. Severability

A. If any article, section, subsection, sentence, clause or phrase of LAC 55:I:2320 et seq. is for any reason determined to be unconstitutional, contrary to statute, in excess of authority, or otherwise inoperative, such determination shall not affect the validity of any other article, section, subsection, sentence, clause or phrase of LAC 55:I.2301 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 28:2370 (November 2002).

Christopher A. Keaton
Undersecretary

0211#072

RULE

Department of Public Safety and Corrections Gaming Control Board

Imposition of Sanctions (LAC 42:VII.2325)

Editor's Note: Section 2325 is being repromulgated to correct a typographical error. The original Rule may be viewed in its entirety on pages 2255-2256.

The Louisiana Gaming Control Board has amended VII.2325, IX.4103 and XIII.2325 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 VII. Pari-Mutual Live Racing Facility Slot
Maching Gaming**

**Chapter 23. Compliance, Inspections and
Investigations**

§2325. Imposition of Sanctions

A. The division may assess a civil penalty as provided for in the penalty schedule. The penalty schedule lists a base fine and proscriptive period for each violation committed by the licensee or permittee. The proscriptive period is the amount of time determined by the division in which a prior violation is still considered active for purposes of consideration in assessment of penalties. A prior violation is a past violation of the same type which falls within the current violation's proscriptive period. The date of a prior violation shall be considered to be when the licensee, or permittee receives the significant action report or violation/inspection report. If one or more violations exist within the proscriptive period, the base fine shall be multiplied by a factor based on the total number of violations within the proscriptive period. The violation of any rule may result in the assessment of a civil penalty, suspension, revocation, or other administrative action. If the calculated penalty exceeds the statutory maximum of \$100,000, the matter shall be forwarded to the Board for further administrative action. In such case, the board shall determine the appropriate penalty to be assessed. Assisting in the violation of rules, laws, or procedures as provided in §2931 may result in a civil penalty in the same amount as provided in the penalty schedule for the respective violation.

B. - D. ...

E. Penalty Schedule

Section Reference	Description	Base Fine	Proscriptive Period (Months)

2954	Tournaments	5,000	12

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 26:1321 (June 2000), amended LR 27:2255 (December 2001), LR 28:1029 (May 2002), repromulgated LR 28:2371 (November 2002).

Hillary J. Crain
Chairman

0211#015

RULE

**Department of Revenue
Policy Services Division**

Collection of In-State Tax Liabilities by Debt
Collection Agencies or the Attorney General's Office
(LAC 61:I.4913)

Under the authority of R.S. 47:1511 and R.S. 47: 1516.1 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of

Revenue, Policy Services Division, adopts LAC 61:I.4913, the rules and regulations pertaining to the authority of the secretary to enter into contracts with debt collection agencies or the Attorney General's Office for the collection of in-state tax liabilities.

R.S. 47:1516.1 authorizes the secretary to enter into contracts with debt collection agencies or the Attorney General's Office for the collection of certain in-state tax liabilities. The in-state debt collection contract Request for Proposal will be advertised in the official journal of the state and in one or more newspapers for at least 10 days before the last day that proposals will be accepted. The deadline for inquiries shall be no less than four weeks after the issuance of the Request for Proposal and the due date for submission of the proposals shall be no less than three weeks after the deadline for inquiries. The secretary will select a committee to evaluate the proposals and make a recommendation and applicants will be notified of the selection in a timely manner.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 49. Tax Collection

**§4913. Collection of In-State Tax Liabilities by Debt
Collection Agencies or the Attorney General's
Office**

A. Definitions

1. For purposes of this Rule, the following terms shall have the meaning ascribed to them.

Attorney General—the attorney general of the state of Louisiana.

Collection Contractor—the attorney general or one or more private persons, companies, associations, or corporations who provide debt collection services inside the state.

B.1. The secretary is authorized to enter into contracts with collection contractors to facilitate the collection of taxes, interest, penalties, and fees due the department after an obligation has become collectible by distraint and sale.

2. The secretary may only enter into a collection contract after notice by regular mail has been transmitted to the taxpayer at the address given in the last report filed by the taxpayer, or to any address obtainable from any private entity that will provide such address free of charge or from any federal, state, or local government entity, including but not limited to the United States Postal Service or from United States Postal Service certified software.

3. The taxpayer will be informed of the following:

- a. that the obligation is a final judgment;
- b. all the actions the secretary is authorized to take in order to collect the debt; and
- c. that if the debt is not paid within 60 days of the date of the notice, a collection fee not to exceed 25 percent of the total liability will be charged to the account.

4. The taxpayer must pay the full amount of any additional charge for the collection of any taxes, interest, penalties, or fees. If an account is referred to a collection contractor, the additional charge will be paid to the collection contractor.

C. The secretary will consider the following criteria in selecting collection contractors:

RULE

**Department of Revenue
Policy Services Division**

**Use of Dyed Special Fuel by Fire Trucks
(LAC 61:I.3363)**

- 1. fees charged;
- 2. organizational structure;
- 3. experience with government accounts;
- 4. computer capabilities including the ability to generate reports and formatting;
- 5. collection methodology;
- 6. financial stability; and,
- 7. personnel resources.

D. Prior to entering into any contract, the secretary will require a performance bond, cash, or securities from the collection contractor in an amount not to exceed \$100,000.

E. Once the collection contract is entered into, the secretary will provide information to the collection contractors concerning the accounts of individual taxpayers only to the extent necessary for the collection contractor to fulfill his contractual obligation.

a. The information furnished by the secretary will be considered confidential and privileged by the collection contractor and members of his staff, as provided by R.S. 47:1508.

b. Collection contractors may not take any action that exceeds the authority of the secretary and must follow the Fair Debt Collection Practices Act.

F. With the approval of the secretary, the collection contractor may file suit, at his expense, in the name of the secretary in the courts of this state for the purpose of collecting the tax debt.

G.1. Nothing contained in this Rule shall be construed to affect in any manner any rights and remedies available to the taxpayer.

2. This Rule does not apply to a spouse who qualifies for liability relief under the innocent spouse provisions of R.S. 47:101.B(7).

H. The attorney general will have a right of first refusal for all accounts selected to be sent to a collection contractor.

1. A list of accounts selected will be compiled by the secretary and forwarded to the attorney general for the exercise of his right of first refusal.

2. The right of first refusal shall be exercised within 30 days of the date of mailing or electronic transmission of the list.

3. If the attorney general fails to exercise his right of first refusal within 30 days or refuses to accept an account, the secretary may send the account to any collection contractor meeting the requirements of Subsection C.

4. When the attorney general accepts an account for collection, the collection fee may not exceed 15 percent of the total liability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 47:1516.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Revenue, Office of the Secretary, LR 28:2371 (November 2002).

Cynthia Bridges
Secretary

0211#054

Under the authority of R.S. 47:1511, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue issues LAC 61:I.3363 to provide guidance as to the information to be submitted for the purpose of applying for an "FD" number as provided in R.S. 47:803.2.

Act 28 of the 2002 Regular Session of the Louisiana Legislature enacted R.S. 47:901(13) defining, for the purposes of the Special Fuels Tax Law, "fire trucks" to mean vehicles built with the capability of operating fire fighting equipment such as hoses, ladders, and pumps and carrying teams of firefighters to fire scenes. Act 28 also enacted R.S. 47:803.2 to allow fire departments or districts that meet certain qualifications to purchase untaxed dyed special fuel for use in the operation of fire trucks and to remit the applicable state special fuels tax directly to the Department of Revenue on a monthly basis.

To qualify for the direct payment "FD" number, the fire department or district must certify to the Department of Revenue that the department or district does not have access to bulk storage for tax-paid clear special fuels, that tax-paid clear special fuel is not available within the fire district, and that the only special fuel available within the fire district for use in the fire trucks is untaxed dyed special fuel.

This rule outlines the type of information that is needed to accompany the application for the "FD" number so that representatives of the Department may determine whether the applying fire department/district meets the established qualifications.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

**Chapter 33. Petroleum Products: Special Fuels Tax
Subchapter B. Users of Special Fuel**

§3363. Use of Dyed Special Fuel by Fire Trucks

A. Before purchasing untaxed dyed special fuel to be used for taxable purposes in fire trucks as defined in R.S. 47:801(13), the fire department or district must submit a Registration Application with the Department of Revenue to obtain a direct payment "FD" number for reporting untaxed dyed special fuel purchases and remitting the applicable state tax on the fuel used for taxable purposes.

B. The application must be made on a form as prescribed by the secretary and include the following information:

- 1. the vehicles and equipment for which application is being made;
- 2. the geographical location and boundaries of the fire district including a map of the fire district;

3. a list of service stations and retail fuel outlets providing special fuel located within the fire district complete with their addresses; and

4. the availability of bulk fuel storage within the fire district to which the fire trucks are authorized access.

C. After an inspection by representatives of the Department, if the qualifications are met, an "FD" number and certificate will be issued to the applicant that will allow the fire department or district to purchase dyed special fuel for the operation of fire trucks as defined in R.S. 47:801(13).

D. Holders of "FD" numbers shall file a report with the Department on a monthly basis and provide the information so required in accordance with R.S. 47:803.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Legal Affairs, Policy Services Division, LR 28:2372 (November 2002).

Cynthia Bridges
Secretary

0211#055

RULE

Department of Social Services Rehabilitation Services Commission for the Deaf

Purchase and Distribution of Assistive Hearing Devices (LAC 67:VII.305)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services (LRS), has revised the Louisiana Commission for the Deaf's Rules of Operation.

This Rule is to provide for the addition of rules governing the purchase and distribution of assistive hearing devices including hearing aids.

Title 67

SOCIAL SERVICES

Part VII. Louisiana Rehabilitation Services

Chapter 3. Commission for the Deaf

§305. Role And Function

A. - A.10.c. ...

d. the purchase and distribution of assistive hearing devices including hearing aids;

i. eligibility for the hearing aid program will include an economic need factor of 250 percent of Federal poverty guidelines, an age factor of 50 years and older, a hearing loss factor of 40 decibels or greater, and individuals may not be eligible for any other State or Federal program providing assistance with hearing aid purchases. Younger individuals who meet all other eligibility requirements may be considered on an individual basis according to funding availability

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with RS. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Commission for the Deaf, LR 13:94 (February 1987), amended by the Department of Social Services, Rehabilitative Services, Commission for the Deaf, IR 17:388

(April 1991), LR 21:589 (June 1995), LR 24:494 (March 1998), LR 28:2373 (November 2002).

Gwendolyn P. Hamilton
Secretary

0211#050

RULE

Department of Social Services Office of Family Support

TANF Initiatives Program C 2002 Initiatives (LAC 67:III.5511, 5531, 5547-5553, and 5557)

Pursuant to the authority granted to the Department of Social Services, Office of Family Support, by the Temporary Assistance for Needy Families (TANF) Block Grant to Louisiana, the agency has adopted LAC 67:III, Subpart 15, §5549. Additionally, the agency has adopted §§5551, 5553, and 5557, and amended §§5511, 5531, and 5547, pursuant to Act 13 of the 2002 Regular Session of the Louisiana Legislature.

All programs have been effected by several Declarations of Emergency. Section 5549 was effected by an Emergency Rule signed April 12, 2002. The amendment to Section 5531 was effected by an Emergency Rule signed June 1, 2002. The Rules were published respectively in the May and June 2002 issues of the *Louisiana Register*. Adoption of §§5551, 5553, and 5557, and amendments to §§5511 and 5547 were effected by Declarations of Emergency signed July 1, 2002.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 15. Temporary Assistance to Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5511. Micro-Enterprise Development

A. Effective July 1, 2002, the Office of Family Support shall enter into a Memorandum of Understanding with the Department of Economic Development to provide assistance to low-income families who wish to start their own businesses.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session, Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:871 (April 2002), amended LR 28:2373 (November 2002).

§5531. After-School Tutorial and Summer Enrichment Programs

A. OFS shall enter into a Memorandum of Understanding with the Department of Education to provide after-school tutorial services and, effective June 1, 2002, summer enrichment programs.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; Act 12, 2001 Reg. Session, and Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:352 (February 2002), amended LR 28:2373 (November 2002).

§5547. Housing Services

A. Effective July 1, 2002, the Department of Social Services, Office of Family Support, may enter into Memoranda of Understanding or contracts to create programs that provide transitional, short-term, or one-time housing services to needy families with minor children who participate in self-sufficiency activities, who are at risk of losing existing housing arrangements, who are in an emergency situation, or who face ineligibility because of increased earnings. These services can include but are not limited to: relocation assistance; costs associated with moving or relocation; down payment of deposit and/or initial month's rent; short-term continuation of a housing voucher; down payment for the purchase of a house; housing counseling and home buyer education for prospective homeowners; or other transitional services determined in conjunction with the Department of Social Services and the Division of Administration.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session; Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:871 (April 2002), amended LR 28:2374 (November 2002).

§5549. OCS Child Welfare Programs (Effective April 12, 2002)

A. OFS shall enter into a Memorandum of Understanding with the Office of Community Services (OCS), the state child welfare agency, for collaboration in identifying and serving children in needy families who are at risk of abuse or neglect. Subsequent to the authorization of the U.S. Department of Health and Human Services, Administration for Children and Families, regarding TANF Maintenance of Effort funds, the agency will identify eligible services retroactive to January 1, 2002. The methods of collaboration include:

1. Child Protection Investigation (CPI) comprises services to assess the validity of a report of child abuse or neglect involving a minor child or children residing with a custodial parent, an adult caretaker relative, or a legal guardian, to determine whether an emergency exists, and when deemed necessary, to develop a safety plan which may include coordination of services, emergency removal and placement, referral to OCS Family Services or another appropriate agency, short term counseling, parenting guidance, and/or arrangements for concrete services, such as the Preventive Assistance Fund (PAF) and Reunification Assistance Fund (RAF). CPI, PAF, and RAF activities were previously part of the OCS Emergency Assistance Program, for which federal TANF funds are deemed eligible under section 404(a)2) of 42 USC 604.

2. Family Services comprises services to a child or children and their parents, adult caretakers relative, or legal guardian, after an allegation of child neglect or abuse has been validated, to assist in preventing the removal of a child from his care giver or, where temporary emergency removal has already occurred in validated abuse and/or neglect cases, to help reunite the family by returning the child. Services are also provided to a family who requests protective services on its own when it is believed that a child in the family would be at risk. Elements of Family Services include problem

identification, family assessment, risk assessment, safety planning, case planning, counseling, problem resolution, provision of or arrangements for needed services, and/or concrete aid through the Preventive Assistance Fund.

B. These services meet the TANF goal to provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives.

C. Financial eligibility for those services attributable to TANF/Maintenance of Effort funds is limited to needy families which include a minor child living with a custodial parent, an adult caretaker relative, or a legal guardian. A needy family is a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), or Supplemental Security Income (SSI).

D. Services are considered non-assistance by the agency. AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq.; R.S. 46:231 and R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2374 (November 2002).

§5551. Community Response Initiative (Effective July 1, 2002)

A. The Department of Social Services, Office of Family Support, may enter into Memoranda of Understanding or contracts with for-profit organizations, non-profit organizations (exempt from taxation under Section 501(c) of the Internal Revenue Code), and state or local public or quasi-public agencies, to develop innovative and strategic programming solutions suited to the unique needs of Louisiana's communities.

B. The services provided by the various partners must meet one, or a combination of, the four TANF goals:

1. to provide assistance to needy families;
2. to end dependence of needy parents by promoting job preparation, work, and marriage;
3. to prevent and reduce out-of-wedlock pregnancies; and
4. to encourage the formation and maintenance of two-parent families.

C. Eligibility for those services meeting TANF goals 1 and 2 is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaChip) benefits, Supplemental Security Income (SSI), Free or Reduced Lunch, or who has earned income at or below 200 percent of the federal poverty level. A needy family consists of minor children, custodial and non-custodial parents, legal guardians, or caretaker relatives of minor children.

D. Eligibility for those services meeting TANF goals 3 and 4 may include any family in need of the provided services regardless of income. A family consists of minor children, custodial and non-custodial parents, legal guardians, or caretaker relatives of minor children.

E. Services are considered non-assistance by the agency. AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2374 (November 2002).

§5553. Substance Abuse Treatment Program for Office of Community Services Clients (Effective July 1, 2002)

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Office for Addictive Disorders (OAD) wherein OFS shall fund the cost of substance abuse screening and testing and the non-medical treatment of members of needy families referred by, and receiving services in certain parish offices from, the Office of Community Services (OCS).

B. These services meet the TANF goal to end the dependence of needy parents on government benefits by providing needy families with substance abuse treatment so that they may become self-sufficient in order to promote job preparation, work, and marriage.

C. Eligibility for services is limited to custodial and non-custodial parents, legal guardians, or caretaker relatives of minor children who are members of a needy family. A needy family is a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaChip) benefits, Supplemental Security Income (SSI), Free or Reduced Lunch, or who has earned income at or below 200 percent of the federal poverty level and in which any member receives services through OCS as Child Protection Investigation clients, Family Services clients, or Foster Care clients.

D. Services are considered non-assistance by the agency.

E. The program will be offered in the following parish offices: Orleans (Uptown District), Jefferson (West Bank), East Baton Rouge (North District), Terrebonne, St. Landry, Calcasieu, Rapides, Caddo, Ouachita, and Tangipahoa. The parish offices in which the program is available may be expanded at the assistant secretary's discretion based on the availability of funding and a determination of need.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2375 (November 2002).

§5557. Energy Assistance Program for Low-Income Families (Effective July 1, 2002)

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Louisiana Housing Finance Agency (LHFA) to provide energy assistance to low-income families based on the availability of funding and a determination of need by the agency, and to educate those families regarding energy conservation. The energy assistance payments shall be provided to LHFA for reimbursement of payments made to utility companies by LHFA on behalf of needy families with minor children.

B. The Office of Family Support hereby declares that all families who have earned income at or below 200 percent of the federal poverty level are in need of energy assistance. Each family's episode of need is evidenced by the seeking of energy assistance under this program.

C. Services meet the TANF goal of providing assistance to needy families so that children may be properly cared for in their own homes or in the homes of relatives by providing funds to help pay the costs of cooling and heating the homes.

D. Eligibility for services is limited to a needy family, that is, a family with minor children who has earned income at or below 200 percent of the federal poverty level.

E. Services are considered non-assistance by the agency as the payments are non-recurrent, short-term, and will not be provided more than once every six months.

F. The payment process will be administered by an outside entity through a contractual agreement. Recipients will be required to provide verification of identity and eligibility as defined for a "needy family" as well as proof of residency at the utility service address. An energy assistance payment of up to \$400 will be paid by LHFA directly to the recipient's utility company or provider. The payment may be used for past-due deposits, reconnection fees, current bills, or as credit towards future services.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2375 (November 2002).

Gwendolyn P. Hamilton
Secretary

0211#051

RULE

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

2003 Wild Turkey Season
(LAC 76:XIX.113, 115, and 117)

The Wildlife and Fisheries Commission does hereby amend the turkey rules and regulations for the 2003 season.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Season

§113. Turkey Hunting Regulations

A. Daily limit is one gobbler, two gobblers per season. Still hunting only. Use of dogs, baiting, electronic calling devices and live decoys is illegal. Turkeys may be hunted with shotguns, including muzzleloading shotguns, using shot not larger than #2 lead or BB steel shot, and bow and arrow but by no other means. Shooting turkeys from a moving or stationary vehicle is prohibited. Shotguns capable of holding more than three shells prohibited.

B. No person shall hunt, trap or take turkeys by the aid of baiting or on or over any baited area. Baiting means placing, exposing, depositing or scattering of corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed so as to constitute a lure, attraction or enticement to, on or over any areas where hunters are attempting to take turkeys.

C. A baited area is any area where corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed capable of luring, attracting or enticing turkeys is directly or

indirectly placed, exposed, deposited, distributed or scattered. Such areas remain baited areas for 15 days following complete removal of all such corn, wheat or other grain, salt, or other feed.

D. Wildlife agents are authorized to close such baited areas and to place signs in the immediate vicinity designating closed zones and dates of closure.

E. The Department of Wildlife and Fisheries strongly discourages feeding agricultural grains to wild turkeys as this practice increases the risk of birds contracting potentially lethal diseases. Repeatedly placing grain in the same area may expose otherwise healthy birds to disease contaminated soils, grain containing lethal toxins and other diseased turkeys using the same feeding site. Properly distributed food plots (clovers, wheat, millet and chufa) are far more desirable for turkeys and have the added benefit of appealing to a wide variety of wildlife.

F. It is unlawful to take from the wild or possess in captivity any live wild turkeys or their eggs. No pen raised turkeys from within or without the state shall be liberated (released) within the state.

G. All licensed turkey hunters are required to have a Turkey Stamp in their possession while turkey hunting in addition to basic and big game hunting licenses. Additionally, a WMA Hunting Permit is required of any person (age 18-59) who hunts on land administered by the Department of Wildlife and Fisheries, including Wildlife Management Areas, Wildlife Refuges, and Habitat Conservation Areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:2263 (November 1999), amended LR 26:2634 (November 2000), LR 27:2270 (December 2001), LR 28:2375 (November 2002).

§115. Statewide Turkey Hunting Areas-Resident Game Birds and Animals

A. Shooting hours: one-half hour before sunrise to one-half hour after sunset.

Species	Season Dates	Daily Bag Limit	Possession Limit
Turkey	See Schedule	1	2/season

B. 2003 Turkey Hunting Schedule

Area	Season Dates
A	March 22-April 20
B	March 22-April 13
C	March 22-March 30

C. 2003 Turkey Hunting Season C Open Only in the Following Areas

1. Area A C March 22-April 20

a. All of the following parishes are open:

- i. East Baton Rouge;
- ii. East Feliciana;
- iii. LaSalle;
- iv. Livingston;
- v. Natchitoches (Exception: See Federal Lands

Hunting Schedule for Kisatchie National Forest dates);

- vi. St. Helena;

- vii. St. Tammany;
- viii. Tangipahoa;
- ix. Washington;
- x. West Baton Rouge;
- xi. West Feliciana (including Raccourci Island).

b. Portions of the following parishes are also open:

i. Allen: North of LA 26 from DeRidder to the junction of LA 104 and north of LA 104;

ii. Avoyelles: That portion bounded on the east by the Atchafalaya River, on the north by Red River to the Brouillette Community, on the west by LA 452 from Brouillette to LA 1, on the south by LA 1, eastward to Hamburg, thence by the West Atchafalaya Basin Protection levee southward;

iii. Beauregard: North of LA 26 east of DeRidder, north and east of US 171-190 from the junction of LA 26 to DeRidder, and north of US 190 from DeRidder to Texas state line;

iv. Caldwell: West of Ouachita River southward to Catahoula Parish line, east of LA 165 from LaSalle Parish line to the junction of LA 126, north of LA 126 westward to the Winn Parish line;

v. Catahoula: West of Ouachita River southward to LA 559 at Duty Ferry, north of LA 559 to LA 124, south and west of LA 124 from Duty Ferry to LA 8 at Harrisonburg and north of LA 8 to LA 126, north and east of LA 126. ALSO that portion lying east of LA 15;

vi. Concordia: That portion east of LA 15 and west of US 65 from its juncture with LA 15 at Clayton;

vii. Evangeline: North and west of LA 115, north of LA 106 from St. Landry to LA 13, west of LA 13 from Pine Prairie to Mamou and north of LA 104 west of Mamou;

viii. Franklin: That portion lying east of LA 17 and east of LA 15 from its juncture with LA 17 at Winnsboro;

ix. Grant: All of the parish except that portion of land that lies north of the Red River between US 71 and LA 8. Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates;

x. Iberville: West of LA 1. EXCEPTION: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries;

xi. Madison: That portion lying west of US 65 and south of US 80;

xii. Pointe Coupee: All of the parish except that portion bounded on the north by LA Hwy. 1, from Innis to the junction of LA Hwy 417, on the west by LA Hwy. 417 southward toward McCrea, on the south by LA Hwy. 417 from McCrea to its junction with Delhi Lane, then by Delhi Lane to LA Hwy. 418, then LA Hwy. 418 northward to LA Hwy. 1 at Innis. EXCEPTION: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries.

xiii. Rapides: All of the parish except that portion of lands that lies north of the Red River and south of US 71 from its juncture with the Red River northward to the Grant Parish line. EXCEPTION: See Federal Lands Hunting Schedule for Kisatchie National Forest season dates;

xiv. Richland: That portion south of US 80 and east of LA 17;

xv. Sabine: That portion north of LA 6 from Toledo Bend Lake to Many; east of US 171 from Many to the Vernon Parish line;

xvi. St. Landry: That portion bounded on the west by the West Atchafalaya Basin Protection Levee and on the east by the Atchafalaya River. EXCEPTION: the Indian Bayou Area, see Federal Lands Hunting Schedule for Indian Bayou Area dates;

xvii. Upper St. Martin: All within the Atchafalaya Basin. EXCEPTIONS: Sherburne WMA and Indian Bayou Area, see WMA Turkey Hunting Schedule for special season dates on all state, federal and private lands within Sherburne WMA boundaries and see Federal Lands Hunting Schedule for Indian Bayou dates;

xviii. Tensas: That portion west of US 65 from the Concordia Parish line to its juncture with LA 128, north of LA 128 to St. Joseph; west and north of LA 605, 604 and 3078 northward to Port Gibson Ferry. Also all lands east of the main channel of the Mississippi River;

xix. Vernon: That portion east of US 171 from the Sabine Parish line to the junction of LA 111, south of LA 111 westward to LA 392, and south of LA 392 westward to the Sabine Parish line. EXCEPTION: See Federal Lands Hunting Schedule for Kisatchie National Forest season dates.

2. Area BCMarch 22-April 13

a. All of the following parishes are open:

- i. Bienville;
- ii. Bossier;
- iii. Claiborne;
- iv. DeSoto;
- v. Jackson;
- vi. Lincoln;
- vii. Red River;
- viii. Union;

ix. Webster (EXCEPTION: See Federal Lands Hunting Schedule for Kisatchie National Forest dates);

x. Winn (EXCEPTION: See Federal Lands Hunting Schedule for Kisatchie National Forest dates).

b. Portions of the following parishes are open:

i. Allen: South and west of LA 26 from DeRidder to US 190 east of Elton, north of US 190 from the junction of LA 26 to Kinder and west of US 165 south of Kinder;

ii. Beauregard: South of LA 26 east of DeRidder, east of US 171 from the junction of LA 26 and south of LA 12 west of Ragley;

iii. Calcasieu: South of LA 12 east of DeQuincy, east of LA 27 from DeQuincy to I-10 and North of I-10 east of Sulphur;

iv. East Carroll: East of US 65 from Arkansas state line to Madison Parish line;

v. Jefferson Davis: North of US 190 from junction with LA 26 to Kinder, west of US 165 and north of I-10 west from junction of US 165;

vi. Ouachita: East of LA 143 from Union Parish line to US 80 in West Monroe, north of US 80 to LA 139, west of LA 139 to the Morehouse Parish line;

vii. Madison: South of US 80 and east of US 65 to Tensas Parish line and all lands lying east of the main channel of the Mississippi River;

viii. Morehouse: West of US 165 from the Arkansas line to Bonita, north and west of LA 140 to junction of LA 830-4 (Cooper Lake Road), west of LA 830-4 to US 165, north of US 165 to LA 139, west of LA 139 to Ouachita Parish line.

3. Area CCMarch 22-March 30

a. All of the following parishes are open:

i. Caddo.

b. Portions of the following parishes are open:

i. Ascension: All east of the Mississippi River;

ii. Catahoula: That portion lying south of Deer Creek to Boeuf River, east of Boeuf and Ouachita Rivers to LA 8 at Harrisonburg, west of LA 8 to LA 913, west of LA 913 and LA 15 to Deer Creek;

iii. Concordia: North and east of Sugar Mill Chute (Concordia Parish) from the state line westward to Red River, east of Red River northward to Cocodrie Bayou, east of Cocodrie Bayou northward to US 84, south of US 84 eastward to LA 15 (Ferriday), east of LA 15 northward to US 65 (Clayton), east of US 65 northward to Tensas Parish line;

iv. Franklin: That portion lying west of LA 17, from Richland Parish line to LA 577 at Crowville, north of LA 577 to LA 15 at Baskin, east of LA 15 to Big Creek, and south and east of Big Creek to Richland Parish line;

v. Iberville: All east of the Mississippi River;

vi. Richland: West of LA 17 from Franklin Parish line to Ringle Rd., south of Ringle Rd. to Ferguson Rd., south of Ferguson Rd. to Little Rd., south of Little Rd. to Big Creek, east of Big Creek to Franklin Parish line;

vii. Tensas: East and south of US 65 from Concordia Parish line to LA 128, south of LA 128 to St. Joseph, east and south of LA 605, 604 and 3078 northward to Port Gibson Ferry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:2264 (November 1999), amended LR 26:2634 (November 2000), LR 27:2270 (December 2001), LR 28:2376 (November 2002).

§117. 2003 Wildlife Management Area Turkey Hunting Regulations

A. General

1. The following rules and regulations concerning management, protection and harvest of wildlife have been officially approved and adopted by the Wildlife and Fisheries Commission in accordance with the authority provided in Louisiana Revised Statutes of 1950, Section 109 of Title 56. Failure to comply with these regulations will subject the individual to citation and/or expulsion from the management area.

2. Only those Wildlife Management Areas listed are open to turkey hunting.

3. ATVs, ATCs and motorcycles cannot be left overnight on WMAs except in designated camping areas. ATVs are prohibited from two hours after sunset to 3 a.m. All roads including trails and roads designated as ATV only trails shall be closed to ATVs from March 1 through August 31 unless otherwise specified. ATV off-road or off-trail travel is prohibited. Certain trails may be open during this time period to provide access for fishing or other purposes. These trails will be marked by signs at the entrance of the trail. Otherwise, only walk-in hunting is permitted (bicycles permitted).

4. Bag limits on WMAs are part of the season bag limit. Only one turkey is allowed to be taken during special lottery hunts.

B. Permits

1. Self-Clearing Permits. All turkey hunts, including lottery hunts, are self-clearing. Hunters must check in daily by obtaining a permit from a self-clearing station prior to hunting. The self-clearing permit must be in the hunters possession while hunting. Upon completion of each days hunt, the hunter must check out by completing and depositing the hunter report portion of the permit in the check-out box at a self-clearing station before exiting the WMA.

2. Lottery Hunts. Bayou Macon, Boise-Vernon, Loggy Bayou, Sabine, Sherburne, Sicily Island, Tunica Hills, Union and West Bay WMAs are restricted to those persons selected as a result of the pre-application lottery. Special youth only lottery hunts will be held on Big Lake, Bens Creek, Fort Polk, Jackson-Bienville, Loggy Bayou, Sherburne, and West Bay WMAs. Deadline for receiving applications for all lottery hunts is February 14, 2003. An application fee of \$5 must be sent with each application. Applicants may submit only one application and will be selected for one WMA Turkey Lottery Hunt annually. Submitting more than one application will result in disqualification. Contact any district office for applications. Hunters must abide by self-clearing permit requirements. Youths chosen for special youth only hunts will be guided by members of the Louisiana Chapter of the National Wild Turkey Federation. One family member may accompany the youth and guide, but may not hunt.

C. Wildlife Management Area Turkey Hunting Schedule*

WMA	Season Dates	Permit Requirements	Lottery Dates**
Bayou Macon	April 5-6	Self-Clearing	April 5-6
Bens Creek ¹	March 22-April 13	Self-Clearing	None
Big Lake	March 22-30	Self-Clearing	None
Bodcau	March 22-April 6	Self-Clearing	None
Boeuf	March 22-30	Self-Clearing	None
Boise Vernon	March 22-23 March 29-April 13	Self-Clearing	March 22-23 March 29-30
Camp Beauregard	March 22-April 6	Self-Clearing	None
Fort Polk	March 22-April 20	Self-Clearing	None
Grassy Lake	March 22-April 6	Self-Clearing	None
Hutchinson Creek	March 22-April 20	Self-Clearing	None
Jackson-Bienville	March 22-April 6	Self-Clearing	None
Little River	March 22-April 6	Self-clearing	None
Loggy Bayou	April 12-13	Self-Clearing	April 12-13
Pearl River	March 22-April 13	Self-Clearing	None
Peason Ridge	March 22-April 20	Self-Clearing	None
Plum Creek (formerly Georgia Pacific)	March 22-30	Self-Clearing	None
Pomme de Terre	March 22-April 6	Self-Clearing	None
Red River	March 22-30	Self-Clearing	None
Sabine	March 22-23 March 29-30	Self-Clearing	March 22-23 March 29-30
Sandy Hollow ¹	March 22-April 13	Self-Clearing	None
Sherburne ²	March 22-30	Self-Clearing	March 22-23 March 24-26

Sicily Island	March 22-30	Self-Clearing	March 22-24 March 25-27 March 28-30
Three Rivers	March 22-30	Self-Clearing	None
Tunica Hills South Tract	March 22-23 March 29-30 April 12-13 April 19-20	Self-Clearing	March 22-23 March 29-30 April 12-13 April 19-20
Tunica Hills Angola Tract ³	March 22-23 March 29-30 April 12-13 April 19-20	Self-Clearing	March 22-23 March 29-30 April 12-13 April 19-20
Union	April 5-6	Self-Clearing	April 5-6
Walnut Hills	March 22-April 20	Self-Clearing	None
West Bay	March 22-23 March 29-30	Self-Clearing	March 22-23 March 29-30

*Only those Wildlife Management Areas listed have a turkey hunting season. All other areas are closed.

**The deadline for receiving applications for all turkey Lottery Hunts on WMAs is February 14, 2003.

¹No turkey hunting within 100 yards of food plots identified by two yellow paint rings around the nearest tree.

²All turkeys harvested on Sherburne WMA must be weighed and checked at WMA headquarters.

³Scouting access limited. Contact Region 7 office for details (225) 765-2360.

D. Wildlife Management Area Youth Hunts

WMA	Lottery Youth Hunt Date
Bens Creek	March 15
Big Lake	March 15
Fort Polk	March 15
Jackson-Bienville	March 15
Loggy Bayou	April 5
Sherburne	March 15
West Bay	March 15

E. Federal Lands Turkey Hunting Schedule

1. Kisatchie National Forest (KNF) Turkey Hunting Schedule: Caney Ranger District, March 22-April 6; all remaining KNF lands, March 22-April 13 (including Catahoula and Red Dirt National Wildlife Management Preserves).

2. Indian Bayou Area (U.S. Army Corps of Engineers), Turkey Hunting Schedule: March 15 handicap only hunt, March 22-30, lottery hunt only on March 22-23 and March 24-26. Contact USCOE at 337-585-0853 for further information.

3. National Wildlife Refuges: Bogue Chitto NWR, March 22BApril 20; Lake Ophelia NWR, March 22-24 (lottery only), March 29-31(lottery only), April 1-6; Tensas NWR, March 15-16 (youth lottery only), March 22BApril 6. Contact the U.S. Fish and Wildlife Service for information regarding NWR hunts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 25:2265 (November 1999), amended LR 26:2636 (November 2000), LR 27:2272 (December 2001), LR 28:2377 (November 2002).

Thomas M. Gattle, Jr.
Chairman

0211#078