

Notices of Intent

NOTICE OF INTENT

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

Pesticide Restrictions (LAC 7:XXIII.143)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Department of Agriculture and Forestry, Advisory Commission on Pesticides, proposes to amend regulations regarding applications of certain pesticides in certain parishes.

The Department of Agriculture and Forestry, Advisory Commission is proposing to amend these rules and regulations for the purpose of adding Wards 1 and 6 of St. Landry Parish so that certain pesticides shall not be applied by commercial applicators between March 15 and September 15.

These rules comply with and are enabled by LA-R.S. 3:3203 and R.S. 3:3223.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticides

Chapter 1. Advisory Commission on Pesticides

Subchapter I. Regulations Governing Application of Pesticides

§143. Restrictions on Application of Certain Pesticides

A. - B.15. ...

C. The pesticides listed in §143.B shall not be applied by commercial applicators between March 15 and September 15 in the following parishes:

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

D. - M.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:193 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), amended LR 19:791 (September 1993), LR 21:668 (July 1993), LR 21:668 (July 1995), LR 24:281 (February 1998), LR 24:2076 (November 1998), LR 26:

Interested persons should submit written comments on the proposed rules to Bobby Simoneaux through the close of business on March 27, 2000 at 5825 Florida Blvd., Baton Rouge, LA 70806. A public hearing will be held on these rules on March 27, 2000 at 9:30 a.m. at the address listed above. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at the hearing. No preamble regarding these rules is necessary.

Family Impact Statement

The proposed amendments to rule XXIII.143 regarding applications of certain pesticides in certain parishes should not have any known or foreseeable impact on any family as Defined by R.S. 49:972 D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed rule.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Pesticide Restrictions

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

There will be no implementation costs or savings to state or local governmental units. The Department of Agriculture and Forestry intends to amend the rules and regulations for the purpose of adding Wards 1 and 6 of St. Landry Parish so that certain pesticides shall not be applied by commercial applicators between March 15 and September 15.

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

There will be no effect on revenue collections of state or local governmental units.

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

There will be no costs and/or economic benefits to directly affected persons or nongovernmental groups. This rule change is intended to make the Department's rule consistent with current practice.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

There will be no estimated effect on competition and employment.

Skip Rhorer Robert E. Hosse
Assistant Commissioner General Government Section Director
0002#120 Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Division of Small and Emerging Business Development**

**Small and Emerging Business Development Program
(LAC 19:I.Chapters 1-13)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, hereby proposes for the following amendments to its rules relative to the Small and Emerging Business Development Program.

Copies of the draft of these rules are available from the Division of Small and Emerging Business Development office and may be obtained through telephone request by calling (225) 342-5373 or by written request to 339 Florida Blvd., Suite 212, Baton Rouge, LA 70804.

All interested persons are invited to submit written comments on the proposed amendments to the rules and regulations. Such comments should be submitted no later than 5 p.m. on March 31, 2000, to Henry J. Stamper, Executive Director, Division of Small and Emerging Business Development, P.O. Box 44153, Baton Rouge, LA 70804 or to 339 Florida Street, Suite 212, Baton Rouge, LA 70802.

Title 19

CORPORATIONS AND BUSINESS

**Part II. Small and Emerging Business Development
Program**

Chapter 1. General Provisions

§107. Eligibility Requirements for Certification

A. - D.1. ...

2. verification of signatories on business bank accounts;

D.3. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1751, 1752, and 1754.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 23:50 (January 1997), amended LR 24:430 (March 1998), LR 25:1084 (June 1999), LR 26:

§115. Duration of Certification

A. - B. ...

C. When the applicant firm's score on financial measurements per their SIC code published by the *Robert Morris Associates* for liquidity, leverage, operating efficiency, and profitability equals to or better than the national average, the firm will be graduated from the

program if the firm's participation in the program has been less than seven years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1755.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 23:52 (January 1997), LR 26:

**§117. Reports by Certified Small and Emerging
Businesses**

A. - B. ...

C. Notification of Changes. To continue participation, a certified firm shall provide the Division with a written statement of any changes in an address, telephone number, ownership, control, financial status, or major changes in the nature of the operation. Failure to do so may be grounds for termination of eligibility.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1757.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 23:52 (January 1997), LR 26:

Chapter 3. Developmental Assistance Program

§301. Developmental Assistance

A. - B. ...

1. ...

2. Determination of Assistance. In consultation with the business owner, the division's staff will determine areas in which the business owner needs assistance.

3. Referral to Additional Resources. The division will assist the firm in obtaining intensive technical and/or managerial assistance from other resources, such as Small Business Development Centers, Procurement Centers, consultants, business networks, professional business associations, educational institutions, and other public agencies.

4. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 23:53 (January 1997), LR 26:

Chapter 5. Mentor/Protégé Program

§501. General Policy

A. The policy of the state is to implement a Mentor/Protégé program that breaks down barriers and builds capacity of small and emerging businesses, through internal and external practices which include:

1. Tone Setting. Intense and deliberate reinforcement by the governor's office of the state's provision for substantial inclusion of small and emerging businesses in all aspects of purchasing, procurement and contracting;

2. Accountability. Responsibility of each cabinet member and policy administrator to produce self-imposed and specific outcomes within a specified period of time;

3. Partnering. Teaming of Small and Emerging Businesses with businesses who have the capability of providing managerial and technical skills, transfer of competence, competitive position and shared opportunity toward the creation of a mutually beneficial relationship with advantages which accrue to all parties;

4. Capacity Building. Enhancing the capability of small and emerging businesses to compete for public and private sector contracting and purchasing opportunities;

5. Flexibility. Promoting relationships based on need, relative strengths, capability and agreement of the parties within the boundaries of the program objectives of inclusion, impartiality and mutual understanding;

6. Education. Sharing instruction on intent, purpose, scope and procedures of the Mentor/Protégé program with both government personnel at all levels of administration as well as the business community and the general citizenry;

7. Monitoring. Requiring the routine measurement and reporting of important indicators of (or related to) outcome oriented results which stems from the continuing quest for accountability of Louisiana state government;

8. Reporting. Informing the governor's office of self-imposed outcomes via written and quarterly reports as to the progress of intra-departmental efforts by having the secretary of the department and her/his subordinates assist in the accomplishment of the initiative keep records, and coordinate and link with representatives of the Department of Economic Development; and

9. Continuous Improvement. Approach to improving the performance of the Mentor/Protégé operation which promotes frequent, regular and possible small incremental improvement steps on an ongoing basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 23:50 (January 1997), amended LR 26:

§503. Incentives for Mentor Participation

A. Businesses participating as mentors in the Mentor/Protégé Program will be motivated for program participation via program features incorporated in the bid process as well as contracts and or purchase agreements negotiated with the firm. The following features may be instituted by the state of Louisiana to motivate Mentor participation.

1. Preferential Contract Award. The state of Louisiana may institute a system for awarding points to mentor participants which will confer advantages in the bid or selection process for contracting. The evaluation points granted a Mentor/Protégé Program participant will be proportionate to the amount of protégé participation in the project. Evaluation points will be weighted with the same standards as points awarded for quality for product or service; or

2. Performance Incentives. Contracts for goods or services may include a factor for evaluation of performance for the purpose of providing incentives for work performed or deliveries completed ahead of schedule. The incentive for contractors and suppliers who are Mentor/Protégé Program participants shall be not less than 5 percent greater than incentives awarded to firms who are not program participants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:

§505. Incentives for Protégé Participation

A. Businesses participating as proteges will be eligible for the following program benefits:

1. Subcontracting Opportunities. Protégé firms may be eligible for non-competitive subcontracting opportunities with the state and private sector industries.

2. Technical and Developmental Assistance. Protégé firms will be provided technical and developmental assistance provided by Mentors which is expected to build the capacity of the protégé firm to compete successfully for public and private sector opportunities.

3. Networking. The Department of Economic Development will institute a system of networking protégé firms with potential mentors for the purposes of facilitating successful Mentor/Protégé partnerships. SEB firms participating in the program will be included in the Department of Economic Development's protégé source guide, which lists the firm and its capabilities as a sources of information for mentors in the program. Additionally, networking seminars for the purposes of introducing potential mentors and protégés will be held annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:

§507. Guidelines for Participation

A. The Mentor/Protégé Program will be open to participation by any business entity which meets the criteria for participation as outlined below.

1. Mentor Firms:

a. must be capable of contracting with the state;

b. must demonstrate their capability to provide managerial or technical skills transfer or capacity building; and

c. must remain in the program for the period of the developmental assistance as defined in the Mentor/Protégé plan.

2. Protégé Firms:

a. must be a certified Small and Emerging Business with the state of Louisiana Department of Economic Development;

b. must be eligible for receipt of government and private contracts;

c. must graduate from the program within a period not to exceed 7 years or until the firm reaches the threshold of \$750,000 net worth as defined by the SEB certification guidelines.

3. Mentor/Protege Plan:

a. A Mentor/Protege Plan signed by the respective firms shall be submitted to the Department of Economic Development, Division of Small and Emerging Business Development for approval. The plan shall contain a description of the developmental assistance that is mutually agreed upon and in the best developmental interest of the protégé firm.

b. The Mentor/Protege plan shall also include information on the mentor's ability to provide developmental assistance, schedule for providing such assistance, and criteria for evaluating the protégé's developmental success. The plan shall include termination provisions complying

with notice and due process rights of both parties and a statement agreeing to submit periodic report reviews and cooperate in any studies or surveys as may be required by the department in order to determine the extent of compliance with the terms of the agreement.

c. The submitted Mentor/Protégé Agreement shall be reviewed by an Economic Development Small Business Advisor. The Small Business Advisor may recommend to the executive director of the Division of Small and Emerging Business Development acceptance of the submitted Agreement if the agreement is in compliance with the division's Mentor/ Protégé guidelines.

4. Protégé Selection. Selection of the protégé is the responsibility and at the discretion of the mentor. Protégés may be selected from the listing of SEB's provided by the Department of Economic Development, Division of Small and Emerging businesses. A protégé selected from another source or reference must be referred to the Department of Economic Development for certification as an SEB. The protégé must meet the department's guidelines for SEB certification as a condition of the Mentor/Protégé Plan acceptance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:

§509. Measurement of Program Success

A. The overall success of the Mentor/Protégé program will be measured by the extent to which it results in:

1. an increase in the protégé firm's technical and business capability, industrial competitiveness, client base expansion and improved financial stability;

2. an increase in the number and value of contracts, subcontracts and supplier agreements by small and emerging businesses; and

3. the overall enhancement and development of protégé firms as a competitive contractor, subcontractor, or supplier to local, state, federal agencies or commercial markets.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51: 1753.1

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:

§511. Internal Controls

A. The Division of Small and Emerging Business Development will manage the program and establish internal controls to achieve the stated program objectives. Controls will include:

1. reviewing and evaluating Mentor/Protégé agreements for goals and objective;

2. reviewing semi-annual progress reports submitted by mentors and protégés on protégé development to measure protégé progress against the approved agreement;

3. requesting and reviewing periodic reports and any studies or surveys as may be required by the division to determine program effectiveness and impact on the growth,

stability and competitive position of Small and Emerging Businesses in the state of Louisiana; and

4. continuous improvement of the program via ongoing and systematic research and development of program features, guidelines and operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51: 1753.1

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:

§513. Non-performance

A. The Mentor/Protégé Agreement is considered a binding agreement between the parties and the state. Mentors who compete for contract award or purchasing activity and receive evaluation points as program participants are bound, in accordance with the terms of the state contract or purchase order, to fulfill the responsibilities outlined in the approved Mentor/Protégé Agreement as a condition of successful contracting or purchase activity. Protégé who are selected for program participation are bound, in accordance with the terms of their agreement with the Department of Economic Development for continued participation in the program. Failure of the parties to meet the terms of the agreement are considered a violation of contract with liabilities as outlined below.

B. Failure of the mentor to meet the terms of the Mentor/Protégé Agreement will be considered a default of state contract or purchasing agreement and.

C. Failure of the protégé to meet the terms of the Mentor/Protégé Agreement will result in exclusion from future participation in the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:

§515. Conflict Resolution

The state will institute a system for independent arbitration for the resolution of conflicts between mentors and protégé as program participants and/or between program participants and the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:

Chapter 9. Small Business Bonding Program

§901. Small Business Bonding Assistance

A.1. - 2. ...

3. Attendance. Attendance is open to only certified or potentially certified small and emerging business construction contractors. However, contractors must register for the institute he or she wishes to attend. Each contractor who successfully completes the LCAI will be issued a certificate of accreditation.

4. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 23:53 (January 1997), amended LR 24:430 (March 1998), LR 26:

Henry J. Stamper
Executive Director

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741~~0~~ Louisiana Handbook for School Administrators~~0~~ Character Education Program (LAC 28:1.901)

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Small and Emerging Business Development Program

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

There will be additional cost to the state for this agency to implement the proposed amendments to the rules of the Small and Emerging Business Development Program. Some of these costs will be absorbed within the present budget allocation. However, there may be additional cost to the state for the agency soliciting "a product/service". The additional cost will be to the extent of the incentives the agency may provide the mentor protégé participants, which shall not be less than five percent greater than incentives awarded to persons not participating in the program. The current professional staff that consists of the Executive Director, the Deputy Assistant Secretary and eight small business advisors will share additional workload or paperwork.

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

There will be no effect on revenue collections of state and local government units.

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

The Small and Emerging Businesses will be the direct beneficiaries of the mentor protégé program. The protégé firms will be provided with managerial and technical assistance. The mentor firms will benefit to the extent resourceful vendor may be produced through the process. The mentor protégé relationship will likely increase SEB firms' revenue to the extent of subcontracting opportunities. However, no historical data exist to estimate the impact and no method is available to make a reliable projection until the program develops a track record.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There may be an effect on competition to the extent that a competing firm with an established mentor protégé relationship would be granted additional points on a professional services contract. Whereas, the competing firms without an established mentor protégé relationship would not be granted those points. These points can aid a competing firm in winning a bid for a contract. The enhanced abilities of SEB Firms will likely increase competition and employment in the state. No data exists to estimate the impact or to make a reliable projection at this time.

Henry J. Stamper
Executive Director
0002#065

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, an amendment to Bulletin 741, referenced in LAC 28:1.901A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). School districts are required to develop a character education philosophy and implementation plan to work in conjunction with Act 149 of the 1998 First Extraordinary Session which required BESE to provide a clearinghouse for information on character education programs and to adopt rules and regulations for the implementation of nonsectarian character education programs in curricula.

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

* * *

Standard 1.087.00:

The school system shall develop character education philosophy and implementation plan consistent with locally developed curriculum.

AUTHORITY NOTE: Promulgated by the Board of Elementary and Secondary Education in R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 26:

Interested persons may submit written comments until 4:30 p.m., April 10, 2000, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741~~0~~ Louisiana Handbook for School Administrators~~0~~ Character Education Program

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

The implementation of changes requires no cost or savings to state or local governmental units.

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

There is no effect on revenue collections of state or local governmental units.

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

There are no effects on costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition and employment.

Marlyn Langley Deputy Superintendent 0002#098
Robert E. Hosse General Government Section Director Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School Administrators Policy for Louisiana's Public Education Accountability System (LAC 28:1.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 741, referenced in LAC 28:1.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The proposed amendment more clearly explains the policy by which School Performance Scores will be calculated, since high stakes testing goes into effect Spring 2000. Students that fail the fourth and eighth grade LEAP tests will be given the opportunity for remediation and retesting during the summer. The changes also include refinements in the state's accountability policy as it pertains to students with disabilities. Limits for alternate and out-of-level assessments have been established, as well as procedures for calculating inclusion of the scores from out-of-level testing in the School Performance Scores.

**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), (15); R.S. 17:7 (5), (7), (11); R.S. 17:10, 11; R.S. 17:22 (2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 24:1085 (June 1998), LR 26:

School Performance Scores

2.006.03 Only spring administration test data shall be used in the School Performance Score.

Inclusion of Students with Disabilities

2.006.18 Most students with disabilities shall take the CRT and the NRT tests 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 an alternate assessment, as required by their IEP.

Local Education Agencies (LEAs) have the option to allow or disallow out-of-level testing. The LEA shall determine the percentage of students who can test out-of-level, 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 alternate assessment. The parent must agree with out-of-level assessment through written parental approval, via the IEP. There shall be an appeals method in place to make decisions on exceptions when the district 4 percent cap has been exceeded.

For students with disabilities who test out-of-level, 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)

The scores of special education students participating in out-of-level testing shall be excluded from the School Performance Score for the school year 1999-2000.

Interested persons may submit written comments until 4:30 p.m., April 10, 2000, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Bulletin 741C Louisiana Handbook for School Administrators Policy for Louisiana's Public Education Accountability System

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

There are no estimated implementation costs to state governmental units. The proposed changes clarify the existing accountability policy and support equitable inclusion of students with disabilities.

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

There will be no effect on revenue collections by state/local governmental units.

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

There will be no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Marlyn Langley Deputy Undersecretary 0002#100

H. Gordon Monk Staff Director Legislative Fiscal Office

NOTICE OF INTENT

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students (TOPS)
(LAC 28:IV.2103)

The Louisiana Student Financial Assistance Commission (LASFAC) advertises its intention to revise the provisions of the Tuition Opportunity Program for Students (TOPS).

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

Interested persons may submit written comments on the proposed changes until 4:30 p.m., March 20, 1999, to Jack L. Guinn, Executive Director, Office of the Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Tuition Opportunity Program for Students (TOPS)

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

The implementation cost associated with publishing these rule revisions in the *Louisiana Register* as emergency, notice and rule is approximately \$200. The purpose of this action is to clarify existing rule, therefore costs for funding additional TOPS awards are not anticipated to increase as a result of this rule change. There are no costs inconsistent with current budgetary appropriations for this purpose.

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

No impact on revenue collections is anticipated to result from this rule change.

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

TOPS recipients will be provided with clarified circumstances warranting exception and procedures for applying for waiver of continuous enrollment.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated to result from this rule.

Mark S. Riley
Assistant Executive Director
0002#099

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Recordkeeping for Specific Licensing of Radioactive
Material (LAC 33:XV.325, 342, and 478)(NE022)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Radiation Protection regulations, LAC 33:XV.325, 342, and 478 (Log #NE022*).

This proposed rule is identical to federal regulations found in 61 FR 24669, May 16, 1999, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This proposed rule specifies records important to decommissioning. It requires the transfer of records pertaining to decommissioning to the new licensee and states that the license will not be terminated until the Nuclear Regulatory Commission (NRC) receives the required records. Changes have occurred in the federal regulations that must be reflected in the state regulations. The basis and rationale for this proposed rule are to maintain state compatibility with the NRC.

This proposed rule meets an exception listed in R.S. 30:2019 (D)(3) and R.S.49:953 (G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part XV. Radiation Protection

Chapter 3. Licensing of Radioactive Material §325. General Requirements for the Issuance of Specific Licenses

* * *

[See Prior Text in A – D.6.d]

7. Each person licensed under this Chapter shall keep records of information important to the safe and effective decommissioning of the facility in an identified location until the site is released for unrestricted use. Before licensed activities are transferred or assigned in accordance with LAC 33:XV.331.B, licensees shall transfer all records

described in this Paragraph to the new licensee. In this case, the new licensee will be responsible for maintaining these records until the license is terminated. If records important to the decommissioning of a facility are kept for other purposes, reference to these records and their locations may be used. Information the division considers important to decommissioning consists of the following:

* * *

[See Prior Text in D.7.a – d.iv]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 23:1140 (September 1997), amended LR 24:2091 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§342. Records

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

1. records of disposal of licensed material made under LAC 33:XV.461, 462, 463, and 464; and
2. records required by LAC 33:XV.472.B.4.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 4. Standards for Protection Against Radiation

Subchapter I. Records

§478. Records of Waste Disposal

* * *

[See Prior Text in A]

B. The licensee or registrant shall retain the records required by LAC 33:XV.478.A until the division terminates each pertinent license or registration requiring the record. Requirements for disposition of these records, prior to license termination, are located in LAC 33:XV.342.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

A public hearing will be held on March 27, 2000, at 1:30 p.m. in the Trotter Building, Second Floor, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by NE022*. Such comments must be received no later than March 27, 2000, at

4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0486. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of NE022*.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

0002#128

NOTICE OF INTENT

Office of the Governor Crime Victims Reparation Board

Award Limits (LAC 22:XIII.503)

In accordance with the provisions of R.S. 46:1801 et seq., the Crime Victims Reparations Act, and R.S. 49:950 et seq., the Administrative Procedure Act, the Crime Victims Reparations Board hereby gives notice of its intent to promulgate rules and regulations to the awarding of compensation to applicants. There will be minor impact on family earnings and family budget as set forth in R.S. 49:972 by an expansion of reimbursable child care expenses.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part XIII. Crime Victims Reparations Board

Chapter 5. Awards

§503. Limits on Awards

A. - C.3. ...

D. Lost Wages/Earnings

1. - 4. ...

5. Repealed.

6. - 7. ...

8. If a person is not gainfully employed or is not receiving entitlement at the time of the crime, then no lost wages can be determined nor awarded. However, an award for loss of wages based on seasonal, nonsalaried or intermittent work, or a bona fide offer of employment may be based on an average net anticipated salary for the period of employment.

9. - 11. ...

E. - K.2. ...

L. Child Care Expenses

1. A maximum of \$1,500 may be paid for each eligible child care claim.

2. The board may award up to \$100 per week per child, up to a maximum of \$200 per week per family.

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:539 (May 1994), amended LR 22:710 (August 1996), LR 24:328 (February 1998), LR 25:2170 (January 1999), LR 26:

Interested persons may submit written comments on this proposed rule no later than March 27, 2000, at 5 p.m. to Bob Wertz, CVR Program Manager, Commission on Law Enforcement and Administration of Criminal Justice, 1885 Wooddale Boulevard, Room 708, Baton Rouge, LA 70806.

Lamarr Davis
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Award Limits**

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

It is estimated that implementation of the proposed rule will increase expenditures by approximately \$2,500 annually in statutorily dedicated funds beginning in 2001 from the Crime Victims Reparations Fund, which is derived from costs levied in state criminal courts. This rule will increase current limits of child care expenses which can be made to eligible victims of violent crimes. Sufficient funds are available in the Crime Victims Reparation Fund to cover these additional expenditures.

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

It is estimated that implementation of the proposed rule will increase revenue collections beginning in FY 01, however, the exact amount is unknown. The dollar amount of federal grant funding allotted annually to the Louisiana Commission on Law Enforcement (LCLE) is contingent upon the dollar amount of state funds which the agency expends for crime victims in the preceding year; therefore, increased state expenditures will generate additional federal funding for the agency in the next fiscal year. Implementation of this rule should increase state expenditures in FY 01, thereby increasing federal revenue collections beginning in FY 02.

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

The proposed amendments will increase the maximum award up to \$1,500 for child care expenses for victims of violent crimes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition or employment in the public or private sector as a result of these proposed amendments.

Michael A Ranatza
Executive Director
0002#119

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of State Uniform Payroll**

Payroll Deduction (LAC 4:III.Chapter 1)

In accordance with R.S. 49:950 et seq., the Office of the Governor, Division of Administration, Office of State Uniform Payroll is proposing to adopt the following rule amending the regulations governing payroll deductions. The purpose of the amendment is to further define, clarify, and establish parameters for vendor participation.

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

Any interested person may submit written comments regarding the contents of this proposed rule to Ronald S. Mitchell, Director, Office of State Uniform Payroll, P.O. Box 94095, Baton Rouge, LA 70804-9095. All comments must be received no later than 5:00 p.m., March 13, 2000.

Whitman J. Kling
Deputy Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Payroll Deduction**

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

The purpose of this rule change is to further define, clarify, and establish parameters for vendor participation by making changes to the review process and timeline of current and new products and by increasing the minimum number of participants having each product. Although the savings to state agencies cannot be measured, it is anticipated that this change will reduce the number of low and unutilized products. This in turn will free up time for agency Human Resource/Payroll personnel which could be directed to providing other HR/PR employee related services.

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

There should be no effect on revenue collections for state or local governments.

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

This change to the current rule will refine the review process and timeline of the Employee Payroll Benefits Committee and increase the minimum employee participation requirement for each product. Employees will benefit in the knowledge that a reasonable review of need, products offered, and services provided has taken place. Vendors should appreciate the benefit of a structured review and evaluation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This change to the current rule should provide employees a better level of comfort with the products provided and provide vendors a more equitable review.

Whitman J. Kling
Deputy Undersecretary
0002#097

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of Public Health

Sanitary Code: Water Supplies (Chapter XII)

Under the authority of R.S. 40:4 and 5.9(A)(4) and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Health and Hospitals, Office of Public Health (DHH-OPH) intends to amend Chapter XII (Water Supplies) of the Louisiana State Sanitary Code. These amendments are deemed necessary in order that DHH-OPH may be able to maintain primacy (primary enforcement authority) from the United States Environmental Protection Agency (USEPA) over public water systems within Louisiana. USEPA requires state primacy agencies to adopt state rules and regulations which are no less stringent than the federal Safe Drinking Water Act's (42 U.S.C.A. §300f, et seq.) primary implementing regulations (40 CFR Part 141). One of the main reasons for these amendments is to implement a rule which will provide the state health officer the authority to use an optional procedure for calculating penalties related to public water systems which serve greater than 10,000 individuals when they fail to comply with a provision of an administrative compliance order issued pursuant to R.S. 40:5.9. Also, the existing definition/term "public water supply" is proposed to be deleted and reenacted as "public water system" to make it equivalent to the recently revised federal definition. In addition, several other items are also being proposed for amendment/adoption to ensure that DHH-OPH clearly has state-level requirements equivalent to federal regulations. Sections 12:004-1 and 12:004-2 regarding turbidity monitoring are proposed to be repealed in their entirety since they are out of date and no longer applicable. Turbidity monitoring is now required under the Louisiana Surface Water Treatment Rule (see LR 17:271, March 20, 1991).

The Louisiana Total Coliform Rule (see LR 17:670, July 20, 1991) which was adopted as an addendum to Chapter XII is proposed to be designated as "Appendix C" of Chapter XII. The Louisiana Surface Water Treatment Rule which was adopted in 1991 without notation to its location in the context of the various state regulations is proposed to be incorporated into Chapter XII as "Appendix D".

The proposed revisions relative to the optional penalty calculation method and the new definition/term "public water system" are specifically necessary due to a federal rule promulgated by USEPA in the Federal Register dated April 28, 1998 (Volume 63, Number 81, pages 23366 through 23368), which is entitled "Revisions to State Primacy Requirements to Implement Safe Drinking Water Act Amendments". This federal rule was promulgated under the authority of the federal Safe Drinking Water Act Amendments of 1996 (Pub.L. 104-182 dated August 6, 1996).

This proposed rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972; however, in accord with R.S. 49:972(B)(6) local

governmental units may be affected if they own or operate a public water system serving greater than 10,000 individuals, are issued an administrative compliance order by the state health officer, violate one or more provisions of such order after the compliance deadline(s) specified therein expires, and the state health officer decides to impose a monetary penalty for such non-compliance using the new authority granted by this proposed rule. Local governmental units owning or operating a public water system are already subject to the requirements of the existing Civil Penalty Assessment Rule; therefore, the actual effect of the new rule would amount to potentially higher penalties than may currently be assessed, especially if more than one provision of the order was violated.

Authority and historical footnotes have been added beneath various sections in preparation for the eventual codification of Chapter XII (Water Supplies) in the *Louisiana Administrative Code*. Further work will be needed to be done in future revisions to complete footnoting of other sections in preparation for such codification.

For the reasons set forth above, Chapter XII (Water Supplies) of the Louisiana State Sanitary Code is proposed to be amended as follows:

Sanitary Code, State of Louisiana

Chapter XII (Water Supplies)

12:001 Definitions

Unless otherwise specifically provided herein, the following words and terms used in this Chapter of the Sanitary Code, and all other Chapters which are adopted or may be adopted, are defined for the purposes thereof as follows:

Abandoned Well: a water well that has been permanently discontinued; has had its pumping equipment permanently removed; is in such a state of disrepair that it cannot be used to supply water and/or has the potential for transmitting surface contaminants into the aquifer; poses potential health or safety hazards or the well is in such a condition that it cannot be placed in service.

Auxiliary Intake: any piping connection or other device whereby water may be secured from a source other than that normally used.

Backflow

(1) a flow condition, induced by a differential pressure, that causes the flow of water or other liquid into the distribution pipes of a potable water supply from any source or sources other than its intended source, or

(2) the backing up of water through a conduit or channel in the direction opposite to normal flow.

Backflow Preventer: a device for a potable water supply pipe to prevent the backflow of water of questionable quality into the potable water supply system.

Back Siphonage: a form of backflow caused by negative or subatmospheric pressure within a water system.

Boil Notice: an official order authorized by the State Health Officer to the owner/users of a specific water supply, directing that water from that supply be boiled according to directions, or otherwise disinfected prior to human consumption.

By-Pass: any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water supply or treatment facility.

Category a group of parameters for which certification is offered.

Certification Fee the annual charge assessed laboratories requesting certification from the Department of Health and Hospitals to provide the needed chemical (organic, inorganic and radiological) analytical support for the public water systems.

Committee of Certification the committee, created by LSA - R.S. 40:1141 through 1151, responsible for certification of waterworks operators and sewerage works operators.

Community Water Supply a public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

Contaminant any physical, chemical, biological, or radiological substance or matter in water.

Cross Connection

(1) a physical connection through which a supply of potable water could be contaminated or polluted, or

(2) a connection between a supervised potable water supply and an unsupervised supply of unknown potability.

Drain any pipe which carries waste water or water-borne waste in a building drainage system.

Drainage System (drainage piping) includes all the piping within public or private premises, which conveys sewage, rain water, or other liquid wastes to a point of disposal, but does not include the mains of a public sewer system or a private or public sewage treatment plant.

Ground Water subsurface water occupying the saturation zone from which wells and springs are fed. In a strict sense the term applies only to water below the water table.

Interconnection a physical connection between two water supply systems.

Laboratory Certification Manual the reference book which contains the Department of Health and Hospitals' regulations governing laboratory certification and standards of performance for laboratories conducting drinking water analyses for public water supplies in the state of Louisiana.

Laboratory Certification Program a program carried out by the Department of Health and Hospitals, Office of Public Health and Office of Licensing and Certification to approve commercially and publicly owned laboratories to perform compliance monitoring of public water supplies in accordance with the National Primary Drinking Water Regulations and Chapter XII of the State Sanitary Code. The cost of the program will be recouped from the laboratories requesting certification.

Laboratory Requesting Certification an uncertified laboratory which has submitted an acceptable application and appropriate fee(s) for the category in which it desires certification.

Louisiana Water Well Rules, Regulations, And Standards the November 1985 Edition, promulgated by the Louisiana Office of Public Works, Department of Transportation and Development, under provisions of State Act 535 of 1972 (R.S. 38:3091 et seq.).

Maximum Contaminant Level (MCL) the highest permissible concentration of a substance allowed in drinking water as established by the U.S. Environmental Protection Agency.

National Primary Drinking Water Regulations regulations promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of title XIV of the Public Health Service Act, commonly known as the "Safe Drinking Water Act," 42 U.S.C.A. §300f, et seq., and as published in the July 1, 1997 edition of the *Code of Federal Regulations*, Title 40, Part 141 (40 CFR 141) less and except the following:

i.) Subpart H - Filtration and Disinfection (40 CFR 141.70 through 40 CFR 141.75), and

ii.) Subpart M - Information Collection Requirements (ICR) for Public Water Systems (40 CFR 141.140 through 40 CFR 141.144).

National Secondary Drinking Water Regulations regulations (40 CFR Part 143) promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of P.L. 99-339, the "Safe Drinking Water Act," and as published in the Federal Register of July 19, 1979, pages 42,195 through 42,202 and April 2, 1986, page 11,412.

Noncommunity Water Supply a public water system that does not meet the criteria for a community water supply and serves at least 25 individuals (combination of residents and transients) at least 60 days out of each year. A non-community water supply is either a "transient non-community water supply" or a "non-transient non-community water supply".

Nontransient Noncommunity Water Supply a public water system that is not a community system and regularly serves at least 25 of the same persons (non-residents) over six months per year.

Operator the individual, as determined by the Committee of Certification, in attendance, onsite of a water supply system and whose performance, judgment and direction affects either the safety, sanitary quality or quantity of water treated or delivered.

Permit a written document issued by the State Health Officer through the Office of Public Health which authorizes construction and operation of a new water supply or a modification of any existing supply.

Potable Water water having bacteriological, physical, radiological, and chemical qualities that make it safe and suitable for human drinking, cooking and washing uses.

Potable Water Supply a source of potable water, and the appurtenances that make it available for use.

Private Water Supply a potable water supply that does not meet the criteria for a public water supply.

Public Water Supply "public water system".

Public Water System a system for the provision to the public of water for potable water purposes through pipes or other constructed conveyances, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. Such term includes:

(a) Any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and,

(b) Any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

A public water system is either a "community water supply" or a "non-community water supply".

Reservoir a natural or artificial lake or impoundment for storage of water (either raw or treated) used or proposed to be used for potable purposes.

Sanitary Well Seal a suitable threaded, flanged, or welded water-tight cap or compression seal installed at the top of the well casing so as to prevent the entrance of contaminated water or other objectionable material into the well.

Service Connection the pipe from the water main and/or water meter, water supply system or other source of water supply to the building or structure served.

Source of Water Supply any well, spring, cistern, infiltration gallery, stream, reservoir, pond, or lake from which, by any means, water is taken either temporarily or continuously for potable use.

Surface Water derived from water sources on the surface of the earth such as streams, ponds, lakes, or reservoirs.

Ten-State Standards the *Recommended Standards for Water Works* (1982 Edition)* or *Recommended Standards for Sewage Works* (1978 Edition)* promulgated by the Great Lakes and Upper Mississippi River Board of State Sanitary Engineers and any modifications and additions to these Standards which the State Health Officer may establish in this Chapter.

* Published by: Health Education Service, P. O. Box 7126, Albany, New York 12224

Transient Non-Community Water Supply a non-community water supply that does not regularly serve at least 25 of the same persons over six months per year.

Treatment Technique Requirement a treatment process/standard which has been established in lieu of a maximum contaminant level when, in the State Health Officer's judgement, it is not economically or technologically feasible to ascertain the level of a contaminant in water intended for potable purposes.

Vacuum Breaker a device for relieving a vacuum or partial vacuum formed in a pipeline, thereby preventing back siphonage.

Water Well (Well) an artificial excavation that derives water from the interstices of the rocks or soil which it penetrates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4, 40:5, and 40:1148.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 14:630 (September 1988), amended LR 15:969 (November 1989), LR 17:781 (August 1991), LR 20:545 (May 1994), LR 26:

12:002-1 General Requirements

Every potable water supply which is hereafter constructed, or reconstructed, or every existing water supply which the State Health Officer determines is unsafe, shall be made to comply with the requirements of the Code.

12:002-2 Permit Requirements

No public water supply shall be hereafter constructed, operated or modified to the extent that the capacity, hydraulic conditions, functioning of treatment processes, or the quality of finished water is affected, without, and except in accordance with, a permit from the State Health Officer.

No public water supply shall be constructed or modified to the extent mentioned above except in accordance with the plans and specifications for the installation which have been approved, in advance, as a part of a permit issued by the State Health Officer prior to the start of construction or modification. Detailed plans and specifications for the installation for which a permit is requested shall be submitted by the person having responsible charge of a municipally owned public water supply or by the owner of a privately owned public water supply. The review and approval of plans and specifications submitted for issuance of a permit, will be made in accordance with the "Ten-State Standards" and the *Louisiana Water Well Rules, Regulations, and Standards*, plus any additional requirements of the State Health Officer as set forth in this Chapter.

12:002-3 Permits issued, and approvals of plans and specifications granted prior to the effective date of this Code shall remain in effect as they pertain to the design of the supply unless the revision of such is determined necessary by the State Health Officer.

12:002-4 Water supplied for potable purposes shall be:

- (a) obtained from a source free from pollution; or
- (b) obtained from a source adequately protected by natural agencies from the effects of pollution; or
- (c) adequately protected by artificial treatment.

12:002-5 Water Quality Standards

Each public water supply shall comply with the maximum contaminant levels or treatment technique requirements prescribed in the National Primary Drinking Water Regulations, the Louisiana Total Coliform Rule (Appendix C), and the Louisiana Surface Water Treatment Rule (Appendix D). The State Health Officer, upon determining that a risk to human health may exist, reserves the right to limit exposure to any other contaminant. Further, each public water supply should comply with the National Secondary Drinking Water Regulations. Treatment to remove questionable characteristics shall be approved by the State Health Officer.

Each public water supply shall comply with the monitoring and analytical requirements specified in the National Primary Drinking Water Regulations, the Louisiana Total Coliform Rule (Appendix C), and the Louisiana Surface Water Treatment Rule (Appendix D), as applicable. A laboratory certification program has been established to approve commercially and publicly owned laboratories to perform chemistry compliance monitoring for public water supplies. Laboratories seeking certification in any chemistry category for which certification is offered must adhere to the rules and regulations governing laboratory certifications as contained in the Department of Health and Hospitals' Laboratory Certification Manual dated September 1989. An annual certification fee will be assessed laboratories seeking certification from the Department of Health and Hospitals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984) as section 12:002-4, contents renumbered as section 12:002-5 and amended by the Department of Health and Hospitals, Office of Public Health, LR 14:630 (September 1988), amended LR 15:969 (November 1989), LR 26:

12:002-6 Upon determination that a public water supply is not in compliance with the maximum contaminant levels or treatment technique requirements of the National Primary Drinking Water Regulations, variances and/or exemptions may be issued by the State Health Officer in accord with Sections 1415 and 1416 of the Safe Drinking Water Act, P.L. 99-339. Upon receipt of a variance and/or exemption, the owners of the public water supply shall appraise their supply and submit within one hundred eighty (180) days compliance and implementation schedules to correct the noncompliance for which the variance and/or exemption was issued. Such compliance and implementation schedule when approved by the State Health Officer shall be executed in accord therewith.

12:002-7 [Blank].

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 15:969 (November 1989), repealed LR 17:781 (August 1991), LR 26:

12:003-1 Responsibility of Owner

It shall be the duty of the Mayor, or the person having responsible charge of a municipally owned water supply, or the legal or natural person owning a public water supply, to take all measures and precautions which are necessary to secure and ensure compliance with this Chapter of the Code, and such persons shall be held primarily responsible for the execution and compliance with regulations of this Code. A printed copy of this Chapter of the Code shall be kept permanently posted in the office used by the authority owning or having charge of a public water supply.

12:003-2 Plant Supervision and Control

All public water supplies shall be under the supervision and control of a competent operator. The operator of public water supplies serving more than 500 persons shall be certified as per requirements of the State Operator Certification Act, Act 538 of 1972, as amended (LSA - R. S. 40:1141-1151).

12:003-3 Records

Complete daily records of the operation of water treatment plants, including reports of laboratory control tests, shall be kept for a period of two years on forms approved by the State Health Officer. Copies of these records shall be provided to the office designated by the State Health Officer within ten (10) days following the end of each calendar month.

12:003-4 Public Notification

If a public water system fails to comply with an applicable maximum contaminant level, treatment technique requirement, or analytical requirement as prescribed by this Code or fails to comply with the requirements of any schedule prescribed pursuant to a variance or exemption, or fails to perform any monitoring required by this Code, the supplier of water shall notify persons served by the system of the failure in a manner prescribed by the National Primary Drinking Water Regulations, the Louisiana Total Coliform Rule (Appendix C), or the Louisiana Surface Water Treatment Rule (Appendix D), as applicable. In addition, if a public water system fails to report required analytical data to the appropriate office designated by the State Health Officer within the applicable time limit(s) stipulated by the National

Primary Drinking Water Regulations or the Louisiana Surface Water Treatment Rule (Appendix D) and such data (e.g., turbidity measurements, corrosion control chemical concentrations, etc.) is required to determine a maximum contaminant level or treatment technique requirement prescribed by this Code, the public water system shall be assessed a monitoring violation and must give appropriate public notification. The water supply, within ten days subsequent to the completion of each public notification shall submit to the State Health Officer a representative copy of each type of notice distributed, published, posted and/or made available to the persons served by the supply and/or to the news media.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 14:630 (September 1988), amended LR 26:

12:003-5 Security

All public water supply wells, treatment units, tanks, etc., shall be located inside a fenced area that is capable of being locked; said areas shall be locked when unattended. The fence shall be resistant to climbing and at least six (6') feet high.

12:004-1 [Blank].

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 14:630 (September 1988), repealed LR 26:

12:004-2 [Blank].

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 14:630 (September 1988), repealed LR 26:

12:005 Reporting Changes in Public Water Supplies

No person owning, or having by law the management control of any public water supply, shall take or cause to be taken for use for potable purposes, water from any auxiliary source other than a source or sources of water approved by the State Health Officer, or shall make any change whatsoever which may affect the sanitary quality of such water supply, without first having notified the State Health Officer. Also, any violation of the National Primary Drinking Water Regulations shall be reported to the State Health Officer within 48 hours after learning of any violation.

12:006 Filtration

All potable water derived from surface waters shall be filtered before distribution. Pressure filters shall not be used in the filtration of surface waters.

12:007 Treatment Chemicals

Chemicals used in the treatment of water to be used for potable purposes shall either meet the standards of the American Water Works Association or meet the guidelines for potable water applications established by the U. S. Environmental Protection Agency.

12:008-1 Ground Water Supplies

All potable ground water supplies shall comply with the following requirements:

12:008-2 Exclusion of Surface Water From Site

The ground surface within a safe horizontal distance of the source in all directions shall not be subject to flooding (as defined in footnote 4 of 12:008-3) and shall be so graded and drained as to facilitate the rapid removal of surface water. This horizontal distance shall in no case be less than fifty (50') feet for potable water supplies.

12:008-3 Distances to Sources of Contamination

Every potable water well, and the immediate appurtenances thereto that comprise the well, shall be located at a safe distance from all possible sources of contamination, including but not limited to, privies, cesspools, septic tanks, subsurface tile systems, sewers, drains, barnyards and pits below the ground surface. The horizontal distance from any such possible source of pollution shall be as great as possible, but in no case less than the following minimum distances, except as otherwise approved by the State Health Officer:

Source	Distance in Feet
Septic tanks	50
Storm or sanitary sewer	50 ¹
Cesspools, outdoor privies, oxidation ponds, subsurface absorption fields, pits, mechanical sewage treatment plants, etc.	100 ²
Another water-well	25 ³
Sanitary landfills, feed lots, manure piles, solid waste dumps and similar installations	100
Drainage canal, ditch or stream	50 ⁴

¹ This distance may be reduced to thirty (30') feet if the sewer is of cast iron with leaded joints or Schedule 40 plastic pipe with water-tight joints.

² For a private water well this distance may be reduced to fifty (50') feet.

³ This minimum distance requirement does not take into consideration the effects of interference from pumping nearby wells in the same aquifer.

⁴ Horizontally measured from the water's edge to the well at the highest water level which may have occurred in a ten-year period.

12:008-4 Leakage From Toilets And Sewers

No toilet, sewer, soil pipe or drain shall be located above or where leakage therefrom can reach any water storage basin, reservoir or source of water supply.

12:008-5 Pits Near Water Supply

There shall be no unauthorized pits or unfilled spaces below level of ground surface, any part of which is within fifty feet of such water supply, except properly constructed well, pump, or valve pits as covered under Section 12:009-5 of this Chapter.

12:008-6 Satisfactory Earth Formation Above The Water Bearing Stratum

The earth formations above the water-bearing stratum shall be of such character and depth as to exclude contamination of the source of supply by seepage from the surface of the ground.

12:008-7 Minimum Depth of Casings and Curbings

All well and spring basin casings or curbings shall extend a safe distance below the ground surface. The minimum depth of casings or curbings shall not be less than fifty (50) feet in the case of public water supplies and not less than ten (10) feet in the case of private water supplies.

12:008-8 Height of Casings and Curbings

In wells with pipe casings, the casings shall project at least twelve inches above ground level or the top of the cover or floor, and the cover or floor shall slope away from the well casing or suction pipe in all directions. Dug well linings shall extend at least twelve inches above the ground surface and cover installed thereon. The cover shall be watertight, and its edges shall overlap and extend downward at least two inches over the walls or curbings of such wells. In flood-prone areas the top of the casing shall be at least two (2') feet above the highest flood level which may have occurred in a ten (10) year period, but in no case less than two (2') feet above the ground surface.

12:008-9 Grouting

The annular space between the well casing and the bore hole shall be sealed with cement-bentonite slurry or neat cement. Community public supply wells shall be cemented to their full depth from the top of the producing aquifer to the ground surface; noncommunity public supply wells shall be cemented from a minimum depth of fifty (50') feet to the ground surface; and private supply wells shall be cemented from a minimum depth of ten (10') feet to the ground surface.

12:008-10 Cover or Floors

Every dug well, spring, or other structure used as a source of potable water, or for the storage of potable water, shall be provided with a watertight cover. Covers and every pump room floor shall be constructed of concrete or similar impervious material, and shall be elevated above the adjacent ground level and sloped to facilitate the rapid removal of water so as to provide drainage from the cover or floor and prevent contamination of the water supply. Such cover or floor shall be constructed so that there are no copings, parapets, or other features which may prevent proper drainage, or by which water can be held on the cover. Concrete floors or cover slabs shall be of such thickness and so reinforced as to carry the load which may be imposed upon it, but in no case less than four (4) inches thick.

12:008-11 Potable Water Well Seals and Covers

Every potable water well shall be provided with a watertight sanitary well seal at the top of the casing or pipe sleeve. For wells with solid pedestal foundations, the well casing shall project at least one (1") inch above the level of the foundation, and a seal between the well casing and the opening in the pump base plate shall be used to effectively seal the base plate to the well casing.

12:008-12 Potable Water Well Casing Vents

All potable water well casings shall be vented to atmosphere as provided in Section 12:008-13 of this Code, with the exception that no vent will be required when single-pipe jet pumps are used.

12:008-13 Potable Water Well Vents

All potable water well vents shall be so constructed and installed as to prevent the entrance of contamination. All vent openings shall be piped water tight to a point not less than twenty-four (24") inches above the highest flood level

which may have occurred in a ten year period, but in no case less than twenty-four (24") inches above the ground surface. Such vent openings and extensions thereof shall be not less than one-half (1/2") inch in diameter, with extension pipe firmly attached thereto. The openings of the vent pipes shall face downward and shall be screened to prevent the entrance of foreign matter.

12:008-14 Manholes

Manholes may be provided on dug wells, reservoirs, tanks, and other similar water supply structures. Every such manhole shall be fitted with a watertight collar or frame having edges which project at least two inches above the level of the surrounding surface, and shall be provided with a solid watertight cover having edges which overlap and project downward at least two inches around the outside of the frame. The cover shall be kept locked at all times, except when it is necessary to open the manhole.

12:008-15 Well Construction Standards

All wells constructed to serve a potable water supply shall be constructed in accordance with *Louisiana Water Well Rules, Regulations, and Standards*. Drillers of wells to serve a potable water supply will comply with the requirements for licensing of water well drillers under State Act No. 715 of 1980 (R.S. 38:2226, 38:3098-3098.8) which is administered by the Louisiana Office of Public Works.

12:008-16 Sampling Tap

All potable water supply wells shall be provided with a readily accessible faucet or tap on the well discharge line at the well for the collection of water samples. The faucet or tap shall be of the smooth nozzle type, shall be upstream of the well discharge line check valve and shall terminate in a downward direction.

12:008-17 Disinfection of Wells

All new wells or existing wells on which repair work has been done shall be disinfected before being put into use as prescribed in Section 12:020-2 of this Chapter.

12:009-1 Construction and Installation of Pumps

All water pumps shall be so constructed and installed as to prevent contamination of the water supply.

12:009-2 Hand Pump Head and Base

Every hand-operated pump shall have the pump head closed by a stuffing box or other suitable device to exclude contamination from the water chamber. The pump base shall be of solid one-piece recessed type of sufficient diameter and depth to admit the well casing as hereinafter provided. The top of the casing or sleeve of every well, equipped with such a pump, shall project into the base of the pump at least one inch above the bottom thereof and shall extend twelve (12") inches above the level of the platform, well cover, or pump room floor on which the pump rests. The pump shall be fastened to the casing or sleeve. The pumps shall be of the self-priming type.

12:009-3 Power Pump

Where pumps or pump motors are placed directly over the well, the pump or motor shall be supported on a base provided therefor. The well casing shall not be used to support pump or motor. This requirement shall not apply to submersible pumps/motors and single-pipe jet pumps/motors. The pump or motor housing shall have a solid watertight metal base without openings to form a cover for the well, recessed to admit the well casing or pump suction. The well casing or pump suction shall project into

the base at least one inch above the bottom thereof, and at least one inch above the level of the foundation on which the pump rests. The well casing shall project at least twelve (12") inches above ground level or the top of the floor.

12:009-4 Where power pumps are not placed directly over the well, the well casing shall extend at least twelve inches above the floor of the pump house. In flood-prone areas the top of the casing shall extend at least two (2') feet above the highest flood level which may have occurred in a ten (10) year period, but in no case less than two (2') feet above the ground surface. The annular space between the well casing and the suction pipe shall be closed by a sanitary well seal to prevent the entrance of contamination.

12:009-5 Well, Pump, Valve, and Pipe Pits

No well head, well casing, pump, or pumping machinery shall be located in any pit, room, or space extending below ground level, or in any room or space above the ground which is walled in or otherwise enclosed so that it does not have drainage by gravity to the surface of the ground, except in accordance with design approved by the State Health Officer, provided, that this shall not apply to a dug well properly constructed as herein prescribed.

12:009-6 Pump House

All pump houses shall be properly constructed to prevent flooding, and shall be provided with floor drainage.

12:009-7 Lubrication of Pump Bearings

Well pump bearings shall be lubricated with oil of a safe, sanitary quality or potable water.

12:009-8 Priming of Power Pumps

Power pumps requiring priming shall be primed only with potable water.

12:009-9 Priming of Hand Pumps

Hand-operated pumps shall have cylinders submerged so that priming shall not be necessary. No pail and rope, bailer, or chain-bucket systems shall be used.

12:009-10 Airlift Systems

The air compressor and appurtenances for any airlift system or mechanical aerating apparatus used in connection with a potable ground water supply, shall be installed and operated in accordance with plans and specifications that have been approved as part of a permit issued by the State Health Officer.

12:010 Well Abandonment

Abandoned water wells and well holes shall be plugged in accordance with the *Louisiana Water Well Rules, Regulations, and Standards*.

12:011-1 Reservoir Sanitation

The State Health Officer may designate any water body, or a part of any water body, as a reservoir, where, in its use as a water source for public water supply, the control of other uses of the water body, or designated part of the water body, and its watershed, is necessary to protect public health.

12:011-2 No cesspool, privy or other place for the deposit or storage of human excrement shall be located within 50 feet of the high water mark of any reservoir, stream, brook, or other watercourse flowing into any reservoir, and no place of this character shall be located within 250 feet of the high water mark of any reservoir or watercourse as above mentioned, unless such receptacle is so constructed that no portion of the contents can escape or be washed into the reservoir or watercourse.

12:011-3 No stable, pigpen, chicken house or other structure where the excrement of animals or fowls is allowed to accumulate, shall be located within 50 feet of the high water mark of any reservoir or watercourse as above mentioned, and no structure of this character shall be located within 250 feet of the high water mark of such waters unless provision is made for preventing manure or other polluting materials from flowing or being washed into such waters.

12:011-4 Boating, fishing, water skiing and swimming on any reservoir or watercourse as above mentioned shall be prohibited, or otherwise restricted by the State Health Officer, when it has been determined that the public served by the public water supply using the reservoir as a water source is exposed to a health hazard, and that such prohibitions or restrictions are therefore necessary. In any case, the aforementioned activities shall be prohibited within one hundred feet of the water intake point of the public water supply.

12:011-5 Industrial Wastes

No industrial waste which may cause objectionable changes in the quality of water used as a source of a public water supply shall be discharged into any lake, pond, reservoir, stream, underground water stratum, or into any place from which the waste may flow, or be carried into a source of public water supply. (Note: This was formerly numbered 12:024).

12:012-1 Distribution

All potable water distribution systems shall be designed, constructed, and maintained so as to prevent leakage of water due to defective materials, improper jointing, corrosion, settling, impacts, freezing, or other causes. Valves and blow-offs shall be provided so that necessary repairs can be made with a minimum interruption of service.

12:012-2 All installations of, or repairs to, public water systems or residential and nonresidential plumbing facilities that provide drinking water and which are connected to a public water supply shall be made using lead free piping, solder and flux. The only exception to this general requirement is that leaded joints necessary for the repair of cast iron pipes may be allowed. For these purposes, lead free, when used with respect to solder and flux, refers to solder and flux containing not more than 0.2 per cent lead. Additionally, when used with respect to pipes and fittings, lead free refers to pipes and fittings containing not more than 8.0 per cent lead.

12:012-3 Where pumps are used to draw water from a water supply distribution system or are placed in a system to increase the line pressure, provision must be made to limit the pressure on the suction side of the pump to not less than fifteen (15) pounds per square inch gauge. Where the use of automatic pressure cut-offs is not possible, such pumps must draw water from a tank, supplied with water from a water distribution system through an air gap as per Chapter XIV of this Code.

12:012-4 All public water supplies shall be operated and maintained to provide a minimum positive pressure of fifteen (15) pounds per square inch gauge at all service connections at all times.

12:013-1 Storage

All cisterns and storage tanks shall be of watertight construction and made of concrete, steel or other materials approved for this purpose by the State Health Officer. When

located wholly or partly below ground, such storage basins shall be of corrosion resistant materials.

12:013-2 Cisterns used for potable water shall be provided with a rain water cut-off, suitable to deflect the first washings of the roof and prevent contamination of the water. Cisterns shall be tightly covered, and screened with 18-mesh wire screen.

12:013-3 Vent Openings

Any vent, overflow, or water level control gauge provided on tanks or other structures containing water for any potable water supply shall be constructed so as to prevent the entrance of birds, insects, dust or other contaminating material. Openings or vents shall face downward and shall be not less than two (2') feet above the floor of a pump room, the roof or cover of a tank, the ground surface or the surface of other water supply structures.

12:013-4 Coatings

Paints or other materials used in the coating of the interior of cisterns, tanks or other containers in which potable water is processed or stored shall be nontoxic to humans and shall be of such composition that the palatability of the water stored or processed shall not be adversely affected. The "Standard for Painting Steel Water Storage Tanks" (AWWA D102-78) published by the American Water Works Association shall be complied with. Determination of acceptability of coatings for potable water applications by the U.S. Environmental Protection Agency may be considered evidence of compliance with this Section. (The AWWA Standard can be obtained from the American Water Works Association, 6666 W. Quincy Ave., Denver, Colo. 80235.)

12:014-1 Protection of Suction Pipes

All subsurface suction piping, such as that leading from detached wells or reservoirs, shall be protected against the entrance of contamination.

12:014-2 Valve boxes shall be provided for valves on buried suction lines. Every such valve box shall project at least six (6") inches above the floor if in a room or building, and at least twelve (12") inches above the ground if not enclosed in a building. The top of the box shall be provided with a cover with overlapping edges.

12:015 Separation of Water Mains and Sewer Mains

Sewer and water mains shall be laid in separate trenches not less than six (6') feet apart horizontally, when installed in parallel. Crossing water and sewer mains shall have a minimum vertical separation of eighteen (18") inches. In cases where it is not possible to maintain a six foot horizontal separation, the State Health Officer may allow a waiver of this requirement on a case by case basis if supported by data from the design engineer.

12:016-1 Cross Connections

There shall be no physical connection between a public water supply and any other water supply which is not of equal sanitary quality and under an equal degree of official supervision; and there shall be no connection or arrangement by which unsafe water may enter a public water supply system.

12:016-2 Water from any potable water supply complying with these requirements may be supplied to any other system containing water of questionable quality only by means of an independent line discharging not less than a distance equal to two (2) times the pipe diameter or two (2) inches, whichever

is greater, above the overflow level of storage units open to atmospheric pressure or by other methods approved by the State Health Officer.

12:017 Connection With Unsafe Water Sources Forbidden

There shall be no cross-connection, auxiliary intake, bypass, inter-connection or other arrangement, including overhead leakage, whereby water from a source that does not comply with these regulations may be discharged or drawn into any potable water supply which does comply with these requirements. The use of valves, including check or back pressure valves, is not considered protection against return flow, or back-siphonage, or for the prevention of flow of water from an unapproved source into an approved system.

12:018 Connections to Public Water Supply

All inhabited premises and buildings located within 300 feet of an approved public water supply shall be connected with such supply, provided that the property owner is legally entitled to make such a connection. The State Health Officer may grant permission to use water from some other source.

12:019 Protection During Construction

All potable water supplies which are hereafter constructed, reconstructed, or extensively altered shall be protected to prevent contamination of the source during construction.

12:020-1 Disinfection of Potable Water Supply Systems

Pipes, pumps, and other parts of water supply systems shall be disinfected when deemed necessary by the State Health Officer.

12:020-2 Disinfection of New Water Supplies

Pumps, pipes, wells, tanks and other parts of new systems shall be thoroughly disinfected by the use of chlorine or chlorine compounds before being placed in use. The rate of application of chlorine shall be in such proportion to the rate of water entering the pipe or other appurtenances that the chlorine dose applied to the water shall be at least 50 mg/l. Chlorinated water shall be retained long enough to destroy non-spore-forming bacteria. The period shall be at least three hours and preferably longer, as may be directed. After the chlorine treated water has been retained for the required time, the chlorine residual at pipe extremities and at other representative points shall be at least 5 mg/l. If the residual is less than 5 mg/l, the disinfection procedure shall be repeated until a 5 mg/l residual is obtained, as required above.

12:020-3 Large storage tanks may be disinfected by washing down the interior of the tank with a chlorine solution having at least 200 mg/l available chlorine and then washing the interior of the tank with potable water and wasting the wash water.

12:020-4 Water from new systems, or from new parts of existing systems, shall not be furnished for consumer's use until tests performed by a laboratory which is certified by the State Health Officer have shown the new system or new part of the system to be free from contamination by coliform bacteria (following procedures prescribed in Standard Methods for the Examination of Water and Wastewater, Fourteenth Edition). Samples shall not be collected from the new facilities until such new facilities have been disinfected as prescribed in Section 12:020-2 above, and the chlorinated water thoroughly flushed from the system.

12:021-1 Mandatory Disinfection

Routine, continuous disinfection is required of all public water systems other than those under Section 12:021-4 of these regulations. Where continuous chlorination methods are used, the following minimum concentration of free chlorine residual shall be provided leaving the plant:

pH Value	Free Chlorine Residual
up to 7.0	0.4 mg/l
7.0 to 8.0	0.6 mg/l
8.0 to 9.0	0.8 mg/l
over 9.0	1.0 mg/l

THIS TABLE DOES NOT APPLY TO SYSTEMS USING CHLORAMINES.

All new groundwater systems installed after the effective date of these regulations shall provide at least 30 minutes contact time prior to the first customer. It is recommended that all existing systems provide the 30 minutes contact time prior to the first customer. Additions to or extensions of existing systems are exempt from the 30 minutes contact time.

Systems which use surface water or ground water which is under the influence of surface water shall meet the requirements of applicable sections of the Louisiana Surface Water Treatment Rule as it pertains to CT and *Giardia* and virus requirements for disinfection.

The effective date for all public water supplies serving a population of greater than 500 shall be July 1, 1995.

The effective date of mandatory disinfection for all public water supplies serving a population of 500 or less shall be July 1, 1996.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 14:630 (September 1988), amended LR 20:1008 (September 1994), LR 26:

12:021-2 Minimum Disinfection Residuals

A minimum disinfectant residual of detectable amount of total chlorine shall be maintained at all points throughout the distribution system at all times for chlorination methods other than chloramines. For very small water systems a residual of 0.2 mg/l free chlorine is generally required to maintain said systems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 14:630 (September 1988), amended LR 20:1008 (September 1994), LR 26:

12:021-3 Other Methods of Disinfection

Where chlorination is not used as the primary disinfectant, chlorine or chloramines shall be used as the secondary disinfectant to provide the residuals required in 12:021-2. Other methods shall be evaluated on a case-by-case basis by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 14:630 (September 1988), amended LR 20:1008 (September 1994), LR 26:

12:021-4 Variances to Mandatory Disinfection

A variance may be granted by the state health officer to a public water system, provided the system meets one of the following criteria:

(a) If the public water system has not had a bacteriological maximum contaminant level (MCL) violation for the past three years;

(b) If the public water system, both existing and future installations, can prove that disinfection would create trihalomethane (THM) levels of 0.10 milligrams per liter or greater. The public water supply should explore alternate means of disinfection prior to requesting a variance. A variance can be granted for such systems, provided the system has the required equipment to verify that a detectable amount of chlorine residual is maintained at all times. For systems under 10,000 population served, said systems shall have 90 days after a TTHM (Total Trihalomethane) exceedance of 0.100 milligrams per liter is determined to request said variance;

(c) A variance shall be granted to a public water supply owned by and/or operated by, and/or created as a political subdivision in accordance with Article 6 Section 14 of the Constitution of the State of Louisiana;

(d) In reference to (a), (b), and (c) above, on a case-by-case basis, when a bacteriological MCL occurs and an administrative order shall be or has been issued to that particular water system, the said water system shall be subject to the orders of the state health officer to take whatever remedial actions that are deemed necessary to comply with all applicable rules, regulations, standards, and the Louisiana Sanitary Code, including, but not limited to, the Louisiana Total Coliform Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 14:630 (September 1988), amended LR 20:1008 (September 1994), LR 26:

12:021-4.1 Variances must be requested in writing and must be approved prior to the effective date of the mandatory disinfection requirement as prescribed in Section 12:021-1 except the new conditions that arise in 12:021-4(b).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 20:1008 (September 1994), LR 26:

12:021-5 Revocation of Variance

A variance from mandatory disinfection shall be revoked when a public water system has a bacteriological MCL violation. When a variance is revoked, the system must install mandatory continuous disinfection as stated in Section 12:021-2 within the times specified in a compliance schedule submitted to and approved by state health officer. Such schedule shall be submitted within 10 days of receipt of notice of revocation. For systems affected under

12:021-4(b), revocations because of a bacteriological MCL shall be evaluated on a case-by-case basis by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), repealed by the Department of Health and Hospitals, Office of Public Health, LR 14:630 (September 1988), re-promulgated LR 20:1008 (September 1994), LR 26:

12:021-6 Batch Disinfection

State health officer may allow batch disinfection for emergency purposes. Batch disinfection shall not be considered a method of continuous disinfection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 20:1008 (September 1994), LR 26:

12:021-7 Records

Daily records of chlorine residual measurements shall be kept. These records shall be maintained on forms approved by the state health officer and shall be retained for a period of two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 20:1008 (September 1994), LR 26:

12:022-1 Water Shall Be Provided

It shall be the duty of the owner or manager of any premises occupied as a residence, hotel, lodging house, tenement house, office building, shop, factory, or waiting room or depot of a railroad or other common carrier to provide a safe supply of potable water for human consumption and for sanitary purposes.

12:022-2 In all cases where the owner or owners of the property or premises referred to in this Code shall not reside in the place where the property is situated, or when such property shall belong to an estate, succession or corporation, it shall be the duty of the agent, or representative of the owners thereof, or the persons who shall have charge of said property for the owners thereof, or who shall collect the rent of such premises, if the same is rented, to provide and furnish such premises with a safe and adequate potable water supply. In case such person shall fail or neglect to supply the same to such premises, within fifteen (15) days after due notice, he shall be in violation of the provisions of this Chapter.

12:022-3 Each public, parochial and private school shall be provided with a potable water supply which is approved as to source, location, and distribution by the State Health Officer.

12:022-4 It shall be the duty of all employers to supply an adequate, safe, potable water supply for all employees.

12:022-5 Wherever a public water supply is available, no other supply shall be furnished for potable purposes to employees in any factory or industrial plant, or other place of business, unless such other supply is approved by the State Health Officer. If no public water supply is available, the water for potable purposes shall be of safe, sanitary quality approved by the State Health Officer. If the water supply for industrial or fire protection purposes is obtained

entirely or in part from a source not approved for potable purposes, this supply shall be distributed through an independent piping system having no connection with the system carrying potable water. All faucets or other outlets furnishing water which is not safe for potable purposes shall be conspicuously so marked.

12:023-1 Public Drinking Fountains

All public drinking fountains shall be designed and constructed in accordance with the provisions of Chapter XIV of this Code. Drinking fountains and coolers shall be constructed of lead free materials as specified in section 12:012-2.

12:023-2 Water fountains and coolers shall be so constructed that the ice or other refrigerant used for cooling cannot come in contact with the water.

12:023-3 Where water coolers or supply tanks used for drinking water are not directly connected to the source of supply, arrangements for filling the containers shall be such as to prevent contamination of the water.

12:023-4 The use of a common drinking cup is prohibited.

12:024 Potable Water Loading Stations

Portable hoses used for filling water containers shall be provided with a metal disk at the nozzle to prevent contact of nozzle with ground or floors. When not in use, the portable hoses shall be protected from dirt and contamination by storage in a tightly enclosed cabinet and shall have a cap to cover the nozzle

12:025 Issuance Of Emergency Boil Notices

An Emergency Boil Notice, when it is deemed necessary to protect public health, shall be authorized only by the State Health Officer. Once implemented, said notice may be rescinded or cancelled only by the State Health Officer.

12:026 Adoption By Reference

The National Primary Drinking Water Regulations, as defined in Section 12:001, are hereby incorporated by reference into this Chapter of the Sanitary Code and shall have the same force and effect of State law as any other section of this Chapter just as if they had been fully published herein. Every public water system shall comply with the National Primary Drinking Water Regulations as defined herein. When the National Primary Drinking Water Regulations as defined herein and the State's own rules and/or regulations applicable to public water systems conflict, the State's own rules and/or regulations shall govern [e.g., the Louisiana Total Coliform Rule (Appendix C) provisions shall govern when any of the federal Total Coliform Rule provisions are found to conflict].

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 26:

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AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 14:630 (September 1988), amended LR 26:

Appendix A

Civil Penalty Assessment Rule

I. Statement of Purpose

1.1 This rule is intended to be a mechanism to secure rapid and full compliance with the requirements of the State Sanitary Code and other applicable laws and regulations relative to public water systems providing safe drinking water. It is not intended as a revenue gathering mechanism, and the Safe Drinking Water Program is not dependent upon any level of penalty revenue to balance its budget. It is based on the principle of reasonable enforcement guidelines to be vigorously implemented. As defined by LSA - R.S. 40:5.9, penalties may be assessed only on the basis of non-compliance with corrective orders, rather than on the basis of the mere existence of a violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), amended LR 26:

II. General Provisions

2.1 Nothing herein shall be construed to prohibit the state health officer from modifying the contents of an administrative order if changes are warranted to ensure compliance with applicable laws and regulations or to allow for the practical ability to comply with the items so ordered. It is incumbent upon the person to whom the administrative order was issued to submit a written request for order modifications when, for instance, it is realized that compliance cannot be achieved within the time constraints specified in the order due to unforeseen problems or delays

such as inclement weather conditions. Such requests shall be considered if the request is received by the state health officer not later than five (5) days before the compliance deadline expires. In order to show proof and date of service, the person requesting any order modifications shall do so by at least one of the following methods:

A. Use of the United States Postal Service via certified mail-return receipt requested, registered mail-return receipt requested, or express mail-return receipt requested.

B. Transmission by facsimile machine will also be accepted; however, the state health officer shall be deemed not to have officially received a facsimile transmission until such time as the requester has received a written acknowledgement, via facsimile or mail, of receipt from the Office of Public Health. Said acknowledgement of receipt shall state the date when the Office of Public Health actually received the transmission and this date, regardless the sender's transmission date, shall be used in the determination of whether or not the time limit stated above was met. It is the responsibility of the sender to ask the Office of Public Health for a written acknowledgement of receipt of any facsimile transmissions which may be sent to the state health officer.

C. Use of a private shipping service, such as United Parcel Service, Federal Express, etc. when such a service can provide a written receipt to the sender stating the date of delivery to the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), amended LR 26:

2.2 Additionally, nothing herein shall be construed to mandate that the state health officer is required to assess penalties in the event of noncompliance with a provision of an administrative compliance order issued pursuant to LSA - R.S. 40:5.9; however, this rule is intended to delineate the procedure for calculating the monetary amount of the civil penalty assessment after the state health officer has decided to assess and impose penalties for noncompliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), amended LR 26:

2.3 When reference is made to a public water system herein, such reference is limited to an individual public water system uniquely identified by its own Public Water System Identification Number (PWS ID No.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), amended LR 26:

III. Calculation of Daily Penalties

3.1 LSA - R.S. 40:5.9(A) authorizes the state health officer to assess a civil penalty up to \$3,000 a day for each day of violation and for each act of violation of a provision of an administrative compliance order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), amended LR 26:

3.2 For purposes of implementation of LSA - R.S. 40:5.9, violation of one or more provisions of an administrative compliance order shall be handled as follows:

A. All violations for a given public water system shall be handled as a package (i.e., the statutory maximum daily penalty of \$3000 per day per violation will be handled as a maximum daily penalty of \$3000 per day per public water system regardless of the number of individual violations). The daily penalty assessment amount shall be based upon the most serious uncorrected violation. As the level of seriousness classification or the level of culpability associated with the most serious uncorrected violation in the package changes, the daily penalty assessment amount will be recalculated accordingly from that time forward and added to any previously calculated assessment amounts.

B. In lieu of the requirements of Section 3.2(A) above, the state health officer, at his sole discretion, is authorized to impose a penalty of no less than \$1000 per day per violation for those public water systems serving more than 10,000 individuals [see Fed. Reg.: April 28, 1999 (Volume 63, Number 81, page 23,367)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), amended LR 26:

3.3 The maximum daily penalty applicable to a particular public water system in violation of one or more of the provisions of an administrative compliance order shall be determined as follows:

A. When a penalty is calculated pursuant to Section 3.2(A) above, the maximum daily penalty shall be set at \$1 dollar per service connection per day based upon the number of service connections listed on Office of Public Health records on the day the administrative order was first issued, but within the following limitations and restrictions:

1. The maximum daily penalty for public water systems having more than 3,000 service connections shall be \$3,000 per day.

2. The maximum daily penalty for public water systems having less than 30 service connections shall be \$30 per day.

B. When a penalty is calculated pursuant to Section 3.2(B) above, the maximum daily penalty shall be set at \$1 dollar per service connection per day per violation based upon the number of service connections listed on Office of Public Health records on the day the administrative order was first issued, but within the following limitations and restrictions:

1. The maximum daily penalty for public water systems having more than 3,000 service connections shall be \$3,000 per day per violation.

2. The maximum daily penalty for public water systems having 2500 service connections (i.e., equivalent to 10,000 individuals served) shall be \$2500 per day per violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), amended LR 26:

3.4 Pursuant to Sections 3.2 and 3.3 above, the exact level of the daily penalty shall be based on the seriousness of the

violation and culpability of the owner and/or operator as follows:

A. Using the maximum daily penalty specified in Section 3.3 above as the basis for calculation, 50 percent of the maximum daily penalty amount shall be judged on the seriousness of the violation and the other 50 percent shall be judged on the culpability of the owner and/or operator.

B. The decision regarding the exact penalty assessment amounts for the seriousness of the violation(s) and the accompanying culpability of the owner and/or operator shall be made by the state health officer after considering a staff recommendation based upon the "Accompanying Guidelines to the Civil Penalty Assessment Rule" (Appendix B).

C. When the state health officer utilizes Section 3.2(B) as the basis for penalty calculation, the minimum daily penalty assessment amount shall in no case be less than \$1000 per day per violation after the provisions of Sections 3.4(A) and 3.4(B) are applied [see Fed. Reg.: April 28, 1999 (Volume 63, Number 81, page 23,367)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), amended LR 26:

3.5 The duration of non-compliance with a provision of the administrative compliance order shall be determined as follows:

A. Once an administrative order has become final and not subject to further administrative review, the state health officer shall direct staff to conduct an initial investigation for the purpose of determining compliance/non-compliance with the provision(s) of the administrative order. The initial investigation shall be conducted within five working days after the time limit granted for compliance within the administrative order ends. If upon agency investigation it is found that non-compliance still exists, staff will immediately provide a copy of the investigatory report to the person on-site in responsible charge of the public water system which will serve to notify the person to whom the administrative order was issued that the agency has determined that non-compliance still exists and that daily penalty assessments shall begin to accrue immediately from this date forward until such time as the agency has been notified by the public water system that compliance has been achieved. If a representative of the public water system is not present or reasonably available at the time of the agency's investigation, staff shall, on the same day as the investigation, attempt to contact via telephone or facsimile machine the person to whom the administrative order was issued or such other responsible person in the employ of the public water system in order to provide speedy notification of results which are deemed by agency staff to cause the continuance of daily penalty assessments. In the latter case involving only verbal or electronic communication, agency staff shall, as soon as possible thereafter, transmit a copy of the investigatory report to the person to whom the administrative order was issued by one of the methods of mailing stated in Section 2.1(A) above.

B. After the agency has conducted the initial investigation, determined that non-compliance with a provision of the administrative order still exists, and has provided a copy of the investigatory report as stated in Section 3.5(A) above, it then becomes incumbent upon the

person to whom the administrative order was issued to notify the agency when compliance has been achieved. In order to show proof and date of service, such notice advising the agency of compliance shall be transmitted to the agency in the same manner as described in Section 2.1(A), (B), or (C) above. Until such time as the agency has been properly notified of correction, the agency will consider the duration to begin on the date of the initial investigation and will presume that such violation is continuing on a daily basis until such time as the agency has received notification of correction. Once the agency is notified of correction, agency staff shall conduct a follow-up investigation in order to confirm compliance. Such follow-up investigation shall be conducted within 10 working days of agency receipt of the public water system's notice of compliance. If upon agency's follow-up investigation it is found that non-compliance still exists, staff will so advise the public water system in the same manner as done for initial investigations with the exception that the public water system will be advised that previously running daily penalty assessments have and will continue to accrue pending yet additional notification of compliance by the public water system to the agency. When the results of the follow-up investigation confirm that compliance has in fact been achieved, then the date that the agency received notification of compliance from the public water system for the particular provision of the administrative order in question shall be considered the last day of non-compliance for purposes of calculating the duration for non-compliance with this particular provision.

C. The steps described in Section 3.5(A) or (B) above may continue for an indefinite period of time but shall end once compliance has been confirmed by agency staff unless such violation is found to reoccur while the administrative order is still in effect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), amended LR 26:

IV. Payment of Penalty/Ability to Request Mitigation of Penalty and/or Adjudicatory Hearing

4.1 At the discretion of the state health officer, notice(s) imposing penalty assessments may be issued from time to time subsequent to either initial non-compliance with any provision of the administrative compliance order or subsequent to any continuance or reoccurrence of non-compliance while the administrative compliance order remains effective. Notices of imposition of penalties shall be served by one of the forms of service described in Section 2.1(A) above or hand-delivered. Within the notice imposing the penalty assessment, the state health officer will inform the owner and/or operator of the public water system of the ability to apply for mitigation of the penalties imposed and for the opportunity for an adjudicatory hearing on the record relative to contesting the imposition of the penalty assessment. Penalties shall not be imposed upon any person without notice and opportunity for hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), amended LR 26:

4.2 Once a penalty assessment is imposed, it shall become due and payable 35 days after receipt of notice imposing the penalty unless a written application for mitigation or a written request for an adjudicatory hearing on the record relative to contesting the imposition of the penalty assessment is received by the state health officer within 20 days after said notice is served. In order to show proof and date of service, the person applying for mitigation or an adjudicatory hearing shall transmit the written application for mitigation or written request for hearing to the agency in the same manner as described in Section 2.1(A), (B), or (C) above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), amended LR 26:

4.3 Upon receipt of a written application for mitigation of such penalty, the state health officer may mitigate the penalty, i.e., upon proof that all of the stipulations in the administrative order have now been complied with or upon agreement to and compliance with a Stipulation and Agreed Order setting out the conditions which will mitigate the penalty. The accompanying guidelines referenced in section 3.4(B) above shall also contain guidance for the state health officer when considering the amount of mitigation of the imposed penalty. When the amount of the penalty imposed is from \$1,000 up to \$5,000, the state health officer shall not mitigate the penalty below \$500. When the amount of the penalty imposed is less than \$1000, the state health officer shall not mitigate the penalty below one-half of the imposed penalty amount. The penalty shall become due and payable 35 days after mailing of notice setting forth the final disposition of the application for mitigation, unless

(i) an application for an adjudicatory hearing to contest the disposition is received within 20 days after the date of mailing the disposition notice, or

(ii) the state health officer specifies a different payment schedule within the disposition notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), LR 26:

4.4 Upon the timely receipt of a written application requesting an adjudicatory hearing, a hearing on the record relative to contesting the imposition of the penalty assessment may be scheduled by the agency. If after consideration of the record it is found that the issuance of the notice imposing the penalty assessment was not proper as supported by and in accordance with the evidence, the administrative law judge shall have the authority to recommend adjustment of the penalty to comply with any items found to be in error or, if justified, withdrawal of the entire penalty. The penalty shall become due and payable 35 days after mailing of notice of the final decision by the agency, unless the final decision by the agency specifies a different payment schedule within the final decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), LR 26:

4.5 When a Stipulation and Agreed Order has been proposed by the agency or the administrative law judge, a fixed number of days will be given for response. If the Stipulation and Agreed Order is not signed and returned by the date fixed or if no response is received by the date fixed, this shall result in both the reimposition of the penalty originally imposed as well as the addition of daily penalties not previously counted from the time the order was first violated. Alternatively, failure of a public water system to comply with the conditions of a Stipulation and Agreed Order shall result in both the reimposition of the penalty originally imposed as well as the addition of daily penalties not previously counted from the time the order was first violated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), LR 26:

V. Court Appeals

5.1 A person who is aggrieved by a final decision of the agency relative to penalty imposition may petition for judicial review according to the provisions of LSA - R.S. 49:964 of the Administrative Procedure Act. Proceedings for review may be instituted by filing a petition in the Nineteenth Judicial District Court, Parish of East Baton Rouge, within 30 days after mailing of notice of the final decision by the agency. Copies of the petition shall be served upon the agency and all parties of record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), LR 26:

Appendix B Accompanying Guidelines to the Civil Penalty Assessment Rule

I. Statement of Purpose

1.1 The purpose of these "Accompanying Guidelines to the Civil Penalty Assessment Rule" (Appendix B) are as follows:

A. This rule is intended to provide guidance for Safe Drinking Water Program staff in making recommendations to the state health officer regarding the exact penalty assessment amounts for the seriousness of the violation(s) and the culpability of the owner and/or operator when it has been determined that a public water system has failed to comply with the directives of an administrative order.

B. Additionally, guidance relative to determining mitigated penalty amounts are also contained herein. Such mitigation guidance is applicable irrespective of the method used in the calculation of penalties, i.e., irrespective of whether 3.2 (A) or 3.2 (B) of the "Civil Penalty Assessment Rule" (Appendix A) was used.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), amended LR 26:

II. Seriousness of Violation

2.1 Pursuant to Sections 3.2 and 3.4 of the "Civil Penalty Assessment Rule (Appendix A), the following penalty assessment levels shall apply towards the seriousness of the violation (public health risk) for the various classifications

of violations described in Subpart 4 of the "Accompanying Guidelines to the Civil Penalty Assessment Rule" (Appendix B):

A. Imminent threat (high risk) type violations shall be assessed at 100 percent of one-half of the maximum daily penalty amount.

B. Priority threat (moderate risk) type violations shall be assessed at 65 percent of one-half of the maximum daily penalty amount.

C. Non-imminent threat (low risk) type violations shall be assessed at 35 percent of one-half of the maximum daily penalty amount.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), amended LR 26:

III. Culpability of the Owner and/or Operator

3.1 Pursuant to Sections 3.2 and 3.4 of the "Civil Penalty Assessment Rule" (Appendix A), the following penalty assessment levels shall apply towards the culpability (the level of blame for the occurrence and/or continuance of a violation including factors such as attitude as well as the nature and extent of the efforts to comply) of the owner and/or operator for the particular violation for which a seriousness penalty is assessed:

A. Culpability determined to be deliberate or intentional (a willful action or lack of action) shall be assessed at 100 percent of one-half of the maximum daily penalty amount.

B. Culpability determined to be recklessness (wanton disregard of the consequences but proceeded with risk in mind) shall be assessed at 65 percent of one-half of the maximum daily penalty amount.

C. Culpability determined to be negligence (failure to prevent the violation due to indifference, lack of reasonable care, lack of diligence, etc.) shall be assessed at 35 percent of one-half of the maximum daily penalty amount.

D. Culpability determined to be non-existent (those cases where the operator and/or owner has acted reasonably, but the violation occurred anyway) shall be assessed at zero percent of one-half of the maximum daily penalty amount, i.e., \$ 0.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), amended LR 26:

IV. Classification of Violations

4.1 The various types of violations which can occur are classified into three levels of seriousness based upon their public health risk. The three levels of seriousness are defined as follows:

A. *Imminent threat* type violations are defined as those violations considered to be of an acute risk to public health requiring an immediate action or response by the owner and/or operator of a public water system. Imminent threat type violations include, but are not limited to, the following:

1. exceeding maximum contaminant levels for nitrate.
2. exceeding the maximum contaminant level for total coliform when fecal coliform or *E. coli* is present in the water distribution system.
3. occurrence of a water-borne disease outbreak in an unfiltered surface water system or an unfiltered ground

water system which is under the direct influence of surface water.

4. any violation specified by the State Health Officer as posing an acute risk to human health.

5. failure to comply with any remedial action(s) ordered in the context of an emergency order issued by the state health officer, such as but not limited to *Boil Notices*.

6. failure to give public notification of an acute violation (Tier 1 - Acute) within the time frames allowed by law or duly adopted rule.

B. *Priority threat* type violations are defined as those violations considered to be of a moderate risk to public health but which could result in an acute risk and therefore require an immediate action or response by the owner and/or operator. Priority threat violations include, but are not limited to, the following:

1. exceeding the maximum contaminant level for total coliform.

2. failure to comply with a treatment technique requirement.

3. failure to comply with a variance or exemption schedule.

4. exceeding the maximum contaminant level for a physical, radiological, or chemical (other than nitrate) contaminant. For the purpose of clarification, a physical contaminant is defined as turbidity, temperature, conductivity, color, taste, or odor.

5. failure to perform compliance monitoring as required for any bacteriological, physical, radiological, or chemical contaminant.

6. failure to utilize either a laboratory certified by the Office of Public Health or an Office of Public Health laboratory which has been certified by EPA for compliance monitoring determination of any bacteriological, physical, radiological, or chemical contaminant in drinking water when such contaminant determination is required by law or duly adopted rule to be analyzed by an EPA or State-certified laboratory.

7. failure to perform proper testing procedures for turbidity, disinfectant residual, temperature, pH, conductivity, alkalinity, calcium, silica, orthophosphate, or any other parameter which is not required to be analyzed in an EPA or State-certified laboratory but the results of which are required to be reported to the State for compliance monitoring determinations.

8. failure to report the results of any test measurement or analysis to the State within the time frame allowed by law or duly adopted rule.

9. failure to comply with any remedial action(s) ordered in the context of a non-emergency order issued by the state health officer.

10. failure to give public notification of a non-acute (Tier 1 - Non-Acute) violation within the time frames allowed by law or duly adopted rule.

C. *Non-imminent threat* violations are defined as those violations considered to be of a low risk to public health which do not require an immediate response by the owner and/or operator. These include operational deficiencies, facility deficiencies, and administrative deficiencies. Non-imminent threat type violations include, but are not limited to, the following:

1. failure to give public notification of a monitoring violation, testing procedure violation, variance grant or existence, or exemption grant or existence (Tier 2) within the time frames allowed by law or duly adopted rule.

2. failure to comply with an operational or maintenance requirement.

3. failure to comply with design and construction standards as required by law or duly adopted rule.

4. failure to submit plans and specifications as required by law or duly adopted rule.

5. failure to comply with an operator certification requirement.

6. failure to submit to the State, within the time frames allowed by law or duly adopted rule, a representative copy of each type of public notice distributed, published, posted, and/or made available to the persons served by the system and/or to the news media.

7. failure to maintain records as prescribed by law or duly adopted rule, such as but not limited to, bacteriological and chemical analyses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), LR 26:

V. Mitigation Guidance

5.1 Section 4.3 of the "Civil Penalty Assessment Rule" (Appendix A) allows the state health officer to mitigate penalties that have been imposed generally either upon proof that all of the provisions in the administrative compliance order have now been complied with or upon compliance with terms of a Stipulation and Agreed Order. The following guidance will be used by the state health officer upon such mitigation proceedings:

A. When considering mitigation of the imposed penalty upon receipt of written application requesting such mitigation, the state health officer shall have the discretion to reduce the imposed penalty beginning at a reduction rate of zero percent up to no more than 90 percent. The ordinarily expected mitigation reduction rate shall be 50 percent of the assessed penalty for the first 60 days of assessed penalty and an 80 percent reduction rate for penalties assessed beyond day 60. Using this procedure, if the end result of the calculated mitigated penalty amount is less than the minimum mitigation limits specified in Section 4.3 of the "Civil Penalty Assessment Rule" (Appendix A), the minimum mitigation limits specified therein shall apply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), amended LR 26:

Appendix C

Louisiana Total Coliform Rule

The State of Louisiana Department of Health and Hospitals (DHH) Office of Public Health (OPH) adopts the United States Environmental Protection Agency (EPA) Federal Total Coliform Regulations as published in the Federal Register, Volume 54, Number 124 Thursday, June 29, 1989. The Louisiana Total Coliform Rule is to be published as an addendum to Chapter XII of the State Sanitary Code. In order to clarify the State's discretionary

decisions allowed by the Federal requirements, the following is offered.

Coliform Routine Compliance Monitoring

Each public water supply must be monitored in accordance with a written sampling plan prepared by the public water supply (PWS) personnel in conjunction with the parish sanitarian. The sampling plan must be reviewed and approved by OPH District/Regional engineering staff. The sampling plan should include a map or sketch of the system with the points of collection (POC) identified along with the street address and/or sufficient information for an unfamiliar person to find the sampling site. The water supply must provide suitable taps which draw water directly from the mains or the service lines. Such taps provide for samples which are most representative of the quality of water provided without "interference" which may be caused by plumbing problems within residences or other structures. Use of such taps decreases the chance of "bad samples" resulting in a coliform maximum contaminant level (MCL) violation which requires public notification by the public water supply and an administrative enforcement action by the EPA/DHH against the public water supply. Community systems must be routinely monitored in accordance with Table 1.

Table 1			
Total Coliform Sampling Requirements According to Population Served			
Population served	Minimum number of routine samples per month	Population served	Minimum number of routine samples per month
25 to 1,000	1	59,001 to 70,000	70
1,001 to 2,500	2	70,001 to 83,000	80
2,501 to 3,300	3	83,001 to 96,000	90
3,301 to 4,100	4	96,001 to 130,000	100
4,101 to 4,900	5	130,001 to 220,000	120
4,901 to 5,800	6	220,001 to 320,000	150
5,801 to 6,700	7	320,001 to 450,000	180
6,701 to 7,600	8	450,001 to 600,000	210
7,601 to 8,500	9	600,001 to 780,000	240
8,501 to 12,900	10	780,001 to 970,000	270
12,901 to 17,200	15	970,001 to 1,230,000	300
17,201 to 21,500	20	1,230,001 to 1,520,000	330
21,501 to 25,000	25	1,520,001 to 1,850,000	360
25,001 to 33,000	30	1,850,001 to 2,270,000	390
33,001 to 41,000	40	2,270,001 to 3,020,000	420
41,001 to 50,000	50	3,020,001 to 3,960,000	450
50,001 to 59,000	60	3,960,001 or more	480

Non-Community systems using ground water must routinely monitor once in each calendar quarter during which the system provides water to 1000 or less persons. A non-community system using ground water and serving more than 1000 persons must monitor monthly in accordance with Table 1. Any non-community using any surface water, or using ground water under the direct influence of surface water must monitor in accordance with Table 1.

The public water supply must collect samples at regular time intervals throughout the month unless the state staff specifies otherwise or state staff collect the samples.

Special purpose samples (investigative samples) shall not be used to determine compliance with the total coliform MCL.

Coliform Repeat Monitoring

If a routine sample is total coliform positive and the public water supply has their own certified laboratory, repeat samples must be collected by the public water supply within 24 hours of being notified of the positive result. If the state collects and analyzes the samples, repeat samples will be collected by parish health unit staff within 24 hours of official notification. The number of repeat samples collected shall be in accordance with Table 2.

Table 2 Monitoring and Repeat Sample Frequency After a Total Coliform Positive Routine Sample		
No. routine samples/month	No. repeat samples/positive	No. routine samples next month
1/month or fewer	4	5/month
2/month	3	5/month
3/month	3	5/month
4/month	3	5/month
5/month or greater	3	Table 1

At least one repeat sample must be collected from the sampling tap where the original total coliform positive sample was taken and at least one repeat sample at a tap within five service connections upstream and at least one repeat sample at a tap within five service connections downstream of the original sampling site. The fourth sample must come from a tap within five service connections upstream or within five service connections downstream. The fourth sample may not come from the original sampling site. If a total coliform-positive sample is at the end of the distribution system, or one away from the end of the distribution system the requirement to collect at least one repeat sample upstream or downstream of the original sampling site is waived.

The repeat samples must be collected on the same day. In a system with a single service connection, four 100ml repeat samples must be collected. Three 100ml samples must be collected in a system if more than one routine sample per month is collected.

If coliforms are detected in any repeat sample, the system must collect another set of repeat samples from the same location unless the MCL has already been violated and the State is aware of violation. If short term corrective actions are not successful, the public water supply must install continuous disinfection and implement a routine flushing program as directed by OPH.

Whenever a system that normally collects less than 5 routine distribution system samples each month receives a positive coliform analysis, it must collect at least 5 routine distribution system samples the next month regardless of the results of repeat sampling.

If a routine or repeat sample result is positive for total coliform, the sample must also be analyzed for fecal coliform or *E. coli* immediately.

Invalidation of Total Coliform Results

Analysis results may be invalidated under specified conditions, including:

1. The OPH acknowledges improper analysis occurred or background bacteriological interference was present.
2. The OPH determines the contamination is from an internal plumbing problem, not the distribution system.
3. The OPH concludes, and states in writing, that the result is due to some condition not related to water quality. This written conclusion must be signed by an OPH representative and made available to the public and EPA.

Total Coliform MCL

1. The maximum contaminant level (MCL) is based on the presence or absence of total coliform rather than on coliform density.
2. If 40 or more distribution system samples are collected per month, no more than 5 percent of the monthly samples may be total coliform positive.
3. If less than 40 distribution system samples are collected per month, no more than one sample per month may be total coliform positive.

NOTE: If collecting less than 40 samples per month, the second positive coliform analysis in any month will result in an MCL violation. If collecting more than 40 samples per month, occasional positives may be tolerated, as long as the number each month does not exceed 5 percent of the total samples.

4. A violation is considered acute and is subject to more stringent public notification requirements when:
 - a. A coliform-positive original sample that is also positive for fecal coliform (or *E. coli*) is followed by a positive coliform repeat sample, or
 - b. a coliform-positive original sample followed by a coliform-positive repeat sample is also positive for fecal coliform (or *E. coli*).

Public Notification

Public notification requirements remain unchanged from the 1989 revisions as specified.

If the MCL is exceeded, the supplier of water is required to provide public notice in a daily or weekly newspaper within 14 days. Where newspaper notice is not feasible for a non-community public water supply, continuous posting may be substituted. In addition to newspaper notice, a notice must also be provided to the consumers by direct mail or hand delivery within 45 days. For an acute MCL violation, a notice shall also be furnished by community systems only to radio and television stations serving the area within 72 hours.

In larger systems, an MCL violation and public notice may be confined to a portion of the distribution system.

In addition, public notification is required within 3 months if a supplier of water fails to comply with a monitoring and/or reporting requirement.

If a replacement sample can not be analyzed and give a readable result, the public water supply will be assessed a monitoring violation and must give appropriate public notification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:670 (July 1991), LR 26:

Appendix D

Surface Water Treatment Rule

Section 1: General Requirements and Definitions

1.01. General Requirements

A. For public water systems using surface water or groundwater under the direct influence of surface water, this chapter establishes treatment techniques in lieu of maximum contaminant levels for the following microbial contaminants: *Giardia lamblia* (cysts), viruses, heterotrophic plate count bacteria, *Legionella*, and turbidity.

B. Each supplier using an approved surface water or groundwater under the direct influence of surface water shall provide multibarrier treatment necessary to reliably protect users from the adverse health effects of microbiological contaminants and to comply with the requirements and performance standards prescribed in this chapter.

C. Within 90 days from the date of notification by the Department of Health and Hospitals, hereinafter referred to as DHH, that the supplier has a treatment plant and/or a surface water supply that does not meet the requirements of this chapter, the supplier shall submit for DHH approval a plan and schedule to bring its system into compliance as soon as feasible.

D. If the supplier disagrees with the DHH's notification, then the supplier shall submit reasons and evidence for its disagreement within 30 days from the receipt of the notification unless an extension of time to meet this requirement is requested and granted by the DHH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:271 (March 1991), amended LR 26:

1.02. Definitions

A. Approved Surface Water. "Approved surface water" means a surface water or groundwater under the direct influence of surface water that has received permit approval from the DHH.

B. Best Available Technology. "Best available technology" for filtration of surface water means conventional treatment which conforms with all of the requirements of this chapter.

C. Certified Operator. "Certified operator" is defined as the individual, as examined by the Committee of Certification as approved by the State Health Officer, meeting all requirements of State Law and regulation and found competent to operate a water supply or sewerage system.

D. Coagulation. "Coagulation" means a process using coagulant chemicals and rapid mixing by which colloidal and suspended material are destabilized and agglomerated into settleable and/or filterable flocs.

E. Conventional Filtration Treatment. "Conventional filtration treatment" means a series of treatment processes which includes coagulation, flocculation, sedimentation, and filtration resulting in substantial particulate removal.

F. Diatomaceous Earth Filtration. "Diatomaceous Earth Filtration" means a process resulting in particulate removal in which a precoat cake of graded diatomaceous earth filter media is deposited on a support membrane (septum) and, while the water is being filtered by passing through the cake on the septum, additional filter media known as body feed is

continuously added to the feed water to maintain the permeability of the filter cake.

G. Deep Bed Filtration. "Deep Bed Filtration" means a process for removing particulate matter from water by passage through porous media exceeding 42 inches in total depth. Underdrain gravels are not to be included.

H. Direct Filtration Treatment. "Direct filtration treatment" means a series of processes including coagulation, flocculation, and filtration but excluding sedimentation.

I. Disinfectant Contact Time. "Disinfectant contact time" means the time in minutes that it takes for water to move from the point of disinfectant application or a previous point of disinfectant residual measurement to a point before or at the point where residual disinfectant concentration is measured. The point of measurement must be before the first customer. Disinfectant contact time in pipelines is calculated by dividing the internal volume of the pipe by the flow rate through the pipe. Disinfectant contact time with mixing basins and storage reservoirs is determined by tracer studies or an equivalent demonstration to the DHH.

J. Disinfection. "Disinfection" means a process which inactivates pathogenic organisms in water by chemical oxidants or equivalent agents.

K. Engineering Report. "Engineering report" means a water treatment technical report prepared by a qualified engineer.

L. Filtration. "Filtration" means a process for removing particulate matter from water by passage through porous media.

M. Flocculation. "Flocculation" means a process to enhance agglomeration or collection of smaller floc particles into larger, more easily settleable or filterable particles through gentle stirring by hydraulic or mechanical means.

N. Groundwater Under the Direct Influence of Surface Water. "Groundwater under the direct influence of surface water" means any water beneath the surface of the ground with significant occurrence of insects or other macroorganisms, algae or large diameter pathogens such as *Giardia lamblia*, or significant and relatively rapid shifts in site specific water characteristics such as turbidity, temperature, conductivity or pH which closely correlate to climatological or surface water conditions. The DHH determination of direct influence may be based on an evaluation of site specific measurements of water quality and/or well characteristics and geology with field evaluation.

O. Heterotrophic Plate Count. "HPC" means heterotrophic plate count analysis (#907) using instrumentation and methods as described in the 16th edition of Standard Methods for the Examination of Water and Wastewater.

P. Legionella. "*Legionella*" means a genus of bacteria, some species of which have caused a type of pneumonia called Legionnaires disease.

Q. Multibarrier Treatment. "Multibarrier Treatment" means a series of water treatment processes that provide for both removal and inactivation of waterborne pathogens.

R. NTU (Nephelometric Turbidity Unit). "Nephelometric Turbidity Unit (NTU)" means a measurement of the turbidity of water as determined by the ratio of the intensity of light scattered by the sample to the intensity of incident light, using instrumentation and

methods described in the 16th edition of Standard Methods for the Examination of Water and Wastewater.

S. Operator. "Operator" is defined as the individual, as determined by the Committee of Certification, in attendance on site of a water supply or sewerage system and whose performance, judgement and direction affects either safety, sanitary quality, or quantity of water distributed or treated, or sewage collected or treated.

T. Pressure Filter. "Pressure filter" means a pressurized vessel containing properly sized and graded granular media.

U. Qualified Engineer. "Qualified engineer" shall mean any engineer who has been registered under the provisions of the State of Louisiana, Act 568 or 1980 and who holds a current certificate issued by the Louisiana State Board of Registration for Professional Engineers and Land Surveyors, and who has knowledge and experience in water treatment plant design, construction, operation, and watershed evaluations.

V. Residual Disinfectant Concentration. "Residual disinfectant concentration" means the concentration of the disinfectant in milligrams per liter (mg/l) in a representative sample of water.

W. Sedimentation. "Sedimentation" means a process for removal of settleable solids before filtration by gravity or separation.

X. Slow Sand Filtration. "Slow sand filtration" means a process involving passage of raw water through a bed of sand at low velocity (less than 0.10 gallons per minute per square foot) resulting in substantial particulate removal by physical and biological mechanisms.

Y. Supplier. "Supplier", for the purpose of this chapter, means the owner or operator of a water system for the provision to the public of piped water for human consumption, provided such system has at least 15 service connections or regularly serves at least 25 individuals daily at least 60 days out of the year.

Z. Surface Water. "Surface water" means all water open to the atmosphere and subject to surface runoff.

AA. Turbidity Level. "Turbidity level" means the value in NTU obtained by measuring the turbidity of a representative grab sample of water at a specified regular interval of time. If continuous turbidity monitoring is utilized, the turbidity level is the discrete turbidity value at any given time.

BB. Virus. "Virus" means a virus which is infectious to humans by waterborne transmissions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:271 (March 1991), amended LR 26:

Section 2. Treatment Requirements and Performance Standards

2.01. Treatment Requirements

A. Each supplier using surface water or groundwater under the direct influence of surface water shall provide multibarrier treatment that meets the requirements of this chapter and reliably ensures at least:

1. A total of 99.9 percent (3 Log) reduction of *Giardia* cysts through filtration and disinfection.
2. A total of 99.99 percent (4 Log) reduction of viruses through filtration and disinfection.

3. The total reductions to be required by the DHH may be higher and are subject to the source water concentration of *Giardia lamblia* and viruses.

B. Suppliers meeting the requirements of Sections 2.02 and 2.04 shall be deemed to be in compliance with the minimum reduction requirements specified in Section 2.01(A).

C. Section 2.03 presents requirements for non-filtering systems. All suppliers which use surface water as a source must provide filtration. On a case by case basis, systems using groundwater under the direct influence of surface water may not be required to filter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:271 (March 1991), amended LR 26:

2.02. Filtration

A. All surface water or groundwater under the direct influence of surface water utilized by a supplier shall be treated using one of the following filtration technologies unless an alternative process has been approved by the DHH.

1. Conventional filtration treatment
2. Direct filtration treatment
3. Slow sand filtration
4. Diatomaceous earth filtration

B. Conventional filtration treatment shall be deemed to be capable of achieving at least 99.7 percent (2.5 Log) removal of *Giardia* cysts and 99 percent (2 Log) removal of viruses when in compliance with operation criteria (Section 4) and performance standards (Sections 2.02 and 2.04). Direct filtration treatment, and diatomaceous earth filtration and shall be deemed to be capable of achieving at least 99 (2 Log) percent removal of *Giardia* cysts and 90 (1 Log) percent removal of viruses when in compliance with operation criteria (Section 4) and performance standard (Section 2.02 and 2.04). Slow sand filtration shall be deemed *Giardia* to be capable of achieving at least 99 (2 Log) percent removal of *Giardia* and 99 (2 Log) percent removal of viruses when in compliance with operation criteria and performance standards.

Filtration Method	Expected Minimum Log Removals		Remaining Minimum Disinfection Log Inactivation	
	<i>Giardia</i>	Viruses	<i>Giardia</i>	Viruses
	Conventional	2.5	2.0	0.5
Direct	2.0	1.0	1.0	3.0
Slow Sand	2.0	2.0	1.0	2.0
Diatomaceous Earth	2.0	1.0	1.0	3.0

Additional treatment removal credit for conventional or direct filtration may be allowed at state discretion to a maximum of 3 Log removal of *Giardia* cysts and 3 Log removal of viruses considering:

1. Demonstration that the total treatment train achieves
 - a. At least 99 percent turbidity removal or filtered water turbidities are consistently less than 0.5 NTU or

b. A 99.9 percent removal of particles in the size range of 5 to 15 µm.

2. HPC count in finished water is consistently less than 10/ml.

3. Demonstration of removal/inactivation of *Giardia* and viruses

4. Process steps elevating process water above pH 9.0 (not necessarily finished water)

5. Filter bed depth in excess of 48 inches

6. Oxidant effect of chemicals feed for alternate purposes (i.e. taste and odor)

If DHH allows additional removal credit for the treatment process, minimum disinfection shall still not be less than reported in the above table. Expected minimum removal credits are listed in Table 1, Section 2.02 B with the corresponding remaining disinfection required.

C. Conventional Filtration or Direct Filtration, shall comply with following performance standards for each treatment plant:

1. The turbidity level of the filtered water shall be equal to or less than 0.5 NTU in 95 percent of the measurements taken each month.

2. For conventional treatment a higher filtered water turbidity, to a maximum of 1.0 NTU in 95 percent of the measurements taken each month, may be allowed at DHH discretion provided the system is achieving previously identified minimum removal and/or inactivation of *Giardia* cysts at the higher turbidity level.

Such a determination may be based upon an analysis of existing design and operating conditions and/or performance relative to certain water quality characteristics. The design and operating conditions to be reviewed include:

a. the adequacy of treatment prior to filtration.

b. the percent turbidity removal across the treatment train, and

c. level of disinfection.

Water quality analysis which may also be used to evaluate the treatment effectiveness include particle size counting before and after the filter. Pilot plant challenge studies simulating full scale operation may also be used to demonstrate effective treatment. Depending on the source water quality and system size, DHH will determine the extent of the analysis and whether a pilot plant demonstration is needed. For this demonstration, systems are allowed to include disinfection in the determination of the overall performance by the system.

3. Filtered water turbidity may not exceed 5 NTU at any time.

D. Slow Sand Filtration shall comply with the following performance standards for each treatment plant:

1. The turbidity level of the filtered water shall be less than or equal to 1.0 NTU in 95 percent of the measurements taken each month. However, filtered water from the treatment plant may exceed 1.0 NTU, provided the filter effluent prior to disinfection does not exceed the maximum contaminant level for total coliforms.

2. The turbidity level of the filtered water does not exceed 5.0 NTU at any time.

E. Diatomaceous earth filtration shall comply with the following performance standards for each treatment plant:

1. The filtered water turbidity must be less than or equal to 1.0 NTU in 95 percent of the measurements each month.

2. The turbidity level of representative samples of filtered water must at not time exceed 5 NTU.

F. An alternative to the filtration technologies specified in Section 2.02(A) may be used provided the supplier demonstrates to the DHH that the alternative technology, 1) provides a minimum of 99 percent *Giardia* cyst removal and 99 percent virus removal and 2) meets the turbidity performance standards established in Section 2.02(C). The demonstration shall be based on the results from a prior equivalency demonstration or a testing of a full scale installation that is treating a water with similar characteristics and is exposed to similar hazards as the water proposed for treatment. A pilot plant test of the water to be treated may also be used for this demonstration if conducted with the approval of the DHH. The demonstration shall be presented in an engineering report prepared by a qualified engineer. Additional reporting for the first full year of operation of a new alternative filtration treatment process approved by the DHH, may be required at DHH discretion. The report would include results of all water quality tests performed and would evaluate compliance with established performance standards under actual operating conditions. It would also include an assessment of problems experienced, corrective actions needed, and a schedule for providing needed improvements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:271 (March 1991), amended LR 26:

2.03. Non-Filtering Systems

A. General. On a case-by-case basis, DHH may waive filtration requirements for suppliers using groundwater under the direct influence of surface water. To be considered, non-filtering systems must conform to the criteria of this section. All suppliers using surface water must employ filtration.

B. Source Water Quality to Avoid Filtration

1. To avoid filtration, a system must demonstrate that either the fecal coliform concentration is less than 20/100 ml and/or the total coliform concentration is less than 100/100 ml in the water prior to the point of disinfectant application in 90 percent of the samples taken during the six previous months. Samples shall be taken prior to blending, if employed.

a. If both fecal and total coliform analysis is performed, only the fecal coliform limit must be met, under this condition, both fecal and total coliform results must be reported.

b. Sample analyses methods may be multiple tube fermentation method or membrane filter test as described in the 16th edition of Standard Methods.

c. Minimum sampling frequencies:

Population	Samples/Week
=500	1
501-3300	2
3301-10,000	3
10,000-25,000	4
>25,000	5

Also, one coliform sample must be taken and analyzed each day the turbidity exceeds 1 NTU prior to disinfection.

2. To avoid filtration, the turbidity of the water prior to disinfection cannot exceed 5 NTU based on grab samples collected every four hours (or more frequently) that the system is in operation. Continuous turbidity measurement is allowed provided the instrument is validated at least weekly.

C. Disinfection Criteria to Avoid Filtration

1. To avoid filtration, a system must demonstrate that it maintains disinfection conditions which inactivate 99.9 percent (3 Log) of *Giardia* cysts and 99.99 percent (4 Log) of viruses everyday of operation except any one day each month. To demonstrate adequate inactivations, the system must monitor and record the disinfectant used, disinfectant residual, disinfectant contact time, pH, and water temperature, and use these data to determine if it is meeting the minimum total inactivation requirements of this rule.

a. A system must demonstrate compliance with the inactivation requirements based on conditions occurring during peak hourly flow. Residual measurements shall be taken hourly. Continuous monitors are acceptable in place of hourly samples.

b. pH and Temperature must be determined daily for each disinfection sequence prior to the first customer.

2. To avoid filtration, the system must maintain a minimum residual of 0.2 mg/L entering the distribution system and maintain a detectable residual throughout the distribution system. Performance standards shall be as presented in Section 2.04 B and C.

3. To avoid filtration, the disinfection system must be capable of assuring that the water delivered to the distribution system is continuously disinfected. This requires:

a. Redundant disinfection equipment with auxiliary power and automatic start up and alarm; or

b. An automatic shut off of delivery of water to the distribution system when the disinfectant residual level drops below 0.2 mg/l.

D. Site Specific Conditions To Avoid Filtration. In addition to the requirement for source water quality and disinfection, systems must meet the following criteria to avoid filtration:

- C maintain a watershed control program
- C conduct a yearly on-site inspection
- C determine that no waterborne disease outbreaks have occurred
- C comply with the revised annual total coliform MCL
- C comply with TTHM Regulations

1. A watershed control program for systems using groundwater under the influence of surface water shall include as a minimum, the requirements of the Wellhead Protection Program, delineated as follows:

a. Specify the duties of State agencies, local governmental entities and public water supply systems with

respect to the development and implementation of The Program;

b. Determine the wellhead protection area (WHPA) for each wellhead as defined in subsection 1428(e) based on all reasonably available hydrogeologic information, groundwater flow, recharge and discharge and other information the State deems necessary to adequately determine the WHPA;

c. Identify within each WHPA all potential anthropogenic sources of contaminants which may have any adverse effect on the health of persons;

d. Describe a program that contains, as appropriate, technical assistance, financial assistance, implementation of control measures, education, training and demonstration projects to protect the water supply within WHPAs from such contaminants.

e. Present contingency plans for locating and providing alternate drinking water supplies for each public water system in the event of well or wellfield contamination by such contaminants;

f. Consider all potential sources of such contaminants within the expected wellhead area of a new water well which serves a public water supply system; and

g. Provide for public participation.

2. On-Site Inspection. An annual on-site inspection is required to evaluate the watershed control program and disinfection facilities. The system shall be reviewed by a qualified engineer for the systems adequacy for producing safe drinking water. The annual on-site inspection shall include as a minimum:

a. Review the effectiveness of the watershed control program.

b. Review the physical condition and protection of the source intake.

c. Review the maintenance program to insure that all disinfection equipment is appropriate and has received regular maintenance and repair to assure a high operating reliability.

d. Review improvements and/or additions made to disinfection processes during the previous year to correct deficiencies detected in earlier surveys.

e. Review the condition of disinfection equipment.

f. Review operating procedures.

g. Review data records to assure that all required tests are being conducted and recorded and disinfection is effectively practiced.

h. Identify any needed improvements in the equipment, system maintenance and operation, or data collection.

3. Sanitary Survey. In addition to the above requirements, a sanitary survey shall be performed every 5 years by the utility which uses groundwater under the influence of surface water without filtration. The sanitary survey shall include:

a. Review the condition of finished water storage facilities.

b. Determine that the distribution system has sufficient pressure throughout the year.

c. Verify that distribution system equipment has received regular maintenance.

d. Review cross connection prevention program, including annual testing of backflow prevention devices.

- e. Review routine flushing program for effectiveness.
- f. Evaluate the corrosion control program and its impact on distribution water quality.
- g. Review the adequacy of the program for periodic storage reservoir flushing.
- h. Review practices in repairing water main breaks to assure they include disinfection.
- i. Review additions, improvements incorporated during the year to correct deficiencies detected in the initial inspection.
- j. Review the operations to assure that any difficulties experienced during the year have been adequately addressed.
- k. Review staffing to assure adequate numbers of properly trained and/or certified personnel are available.
- l. Verify that a regular maintenance schedule is followed.
- m. Audit systems records to verify that they are adequately maintained.
- n. Review bacteriological data from the distribution system for coliform occurrence, repeat samples and action response.

4. No Disease Outbreaks. To avoid filtration, a system using groundwater under the influence of surface water must not have been identified as a source of waterborne disease. If such an outbreak has occurred and (in the opinion of DHH) was attributed to a treatment deficiency, the system must install filtration unless the system has upgraded, its treatment to remedy the deficiency to the satisfaction of DHH.

5. Coliform MCL. To avoid filtration, a system must comply with the MCL for Total Coliforms, established in the Total Coliform Rule, for at least 11 out of 12 of the previous month unless DHH determines the failure to meet this requirement was not caused by a deficiency in treatment.

6. Total Trihalomethane (TTHM) Regulations. For a system using groundwater under the influence of surface water to continue using disinfection as the only treatment, the system must comply with current and (eventually) pending TTHM Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:271 (March 1991), amended LR 26:

2.04 Disinfection

A. All surface water or groundwater under the direct influence of surface water utilized by a supplier shall be provided with continuous disinfection treatment sufficient to ensure that the total treatment process provides inactivation of *Giardia* cysts and viruses, in conjunction with the removals obtained through filtration, to meet the reduction requirements specified in Section 2.01.

B. Disinfection treatment shall comply with the following performance standards:

1. Water delivered to the distribution system shall contain a disinfectant residual of not less than 0.2 mg/l for more than four hours in any 24 hour period.

2. The residual disinfectant concentrations of samples collected from the distribution system shall be detectable in at least 95 percent of the samples each month, taken during any two consecutive months. At any sample point in the distribution system, the presence of heterotrophic plate count

(HPC) at concentrations less than 500 colony forming units per milliliter shall be considered equivalent to a detectable disinfectant residual.

C. Determination of Inactivation by Disinfection. Minimum disinfection requirements shall be determined by DHH on a case by case basis but shall not be less than those reported in Section 2.02(B). The desired level of inactivation shall be determined by the calculation of CT values; residual disinfectant concentration (C) times the contact times (T) when the basin is in operation. Disinfectant contact time must be determined by tracer studies.

1. The T10 value will be used as the detention time for calculating CTs. T10 is the detention time at which 90 percent of the flow passing through the vessel is retained within the vessel. Systems conducting tracer studies shall submit a plan to DHH for review and approval prior to the study being conducted. The plan must identify how the study will be conducted, the tracer used, flow rates, etc. The plan must also identify who will actually conduct the study. Tracer studies are to be conducted according to protocol found in standard engineering texts (such as Levenspiel), or the methodology in the EPA SWTR Guidance Manual.

2. On a case-by-case basis, alternate empirical methods of calculating T10 as outlined in the Guidance Manual may be accepted for vessels with geometry and baffling conditions analogous to basins on which tracer studies have been conducted and results have been published in the Guidance Manual or the literature.

3. Additional tracer studies may be required by DHH whenever modifications are made which could impact flow distribution, contact time, or disinfectant distribution.

4. CT values utilized in this evaluation shall be those reported in the EPA SWTR Guidance Manual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:271 (March 1991), amended LR 26:

2.05. Design Standards

A. All new treatment and disinfection facilities shall be designed and constructed to meet the existing State Sanitary Code as modified by the requirements contained herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:271 (March 1991), amended LR 26:

Section 3: Monitoring Requirements

3.01. Filtration

A. Each supplier using a surface water or groundwater under the direct influence of surface water source shall monitor the turbidity level of the raw water supply by the taking and analyzing of a daily grab sample. Continuous monitoring may be substituted providing the accuracy of the measurements are validated weekly.

B. To determine compliance with the performance standards specified in Section 2.02, each supplier shall determine the turbidity level of representative samples of the combined filter effluent, prior to clearwell storage, at least once every four hours that the system is in operation.

C. For finished water turbidity, continuous turbidity measurements may be substituted for grab sample

monitoring provided the supplier validates the accuracy of the measurements on a weekly basis.

D. Suppliers using slow sand filtration or serving fewer than 500 people may reduce turbidity monitoring to one grab sample per day if DHH determines that less frequent monitoring is sufficient to indicate effective filtration performance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:271 (March 1991), amended LR 26:

3.02. Disinfection

A. To determine compliance with disinfection inactivation requirements specified in Section 2.02, each supplier shall develop and conduct a monitoring program to measure those parameters that affect the performance of the disinfection process. This shall include but not be limited to:

- 1) temperature of the disinfected water,
- 2) pH(s) of the disinfected water if chlorine is used as a disinfectant,
- 3) the disinfectant contact time(s), and
- 4) the residual disinfectant concentrations before or at the first customer.

B. To determine compliance with the performance standards specified in Section 2.02 or 2.04, the disinfectant residual concentrations of the water being delivered to the distribution system shall be measured and recorded continuously. If there is a failure of continuous disinfectant residual monitoring equipment, grab sampling every four hours may be conducted in lieu of continuous monitoring, but for no more than five working days following the failure of the equipment. The residual disinfectant concentrations must be measured at least at the same points in the distribution system and at the same time that total coliforms are sampled.

C. Suppliers serving fewer than 3300 people may collect and analyze grab samples of disinfectant residual each day in lieu of the continuous monitoring, in accordance with Table 2, provided that any time the residual disinfectant falls below 0.2 mg/l, the supplier shall take a grab sample every four hours until the residual concentrations is equal to or greater than 0.2 mg/l.

Table 2	
Disinfectant Residual Sampling	
System Population	Samples/Day
≤500	1
501-1,000	2
1,001-2,500	3
2,501-3,300	4

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:271 (March 1991), amended LR 26:

Section 4: Operation

4.01. Operating Criteria

A. All treatment plants utilizing surface water or groundwater under the direct influence of surface water shall be operated by operators certified by DHH.

B. Filtration facilities shall be operated in accordance with the following requirements:

1. Conventional and direct filtration plants shall be operated at flow rates not to exceed three gallons per minute per square foot (gpm/sq ft) for gravity filters. For pressure filters, if approved by DHH, filtration rates shall not exceed two gpm/sq ft.

2. Slow sand filters shall be operated at filtration rates not to exceed 0.10 gallons per minute per square foot. The filter bed shall not be dewatered except for cleaning and maintenance purposes.

3. Diatomaceous earth filters shall be operated at filtration rates not to exceed 1.0 gallon per minute per square foot.

4. In order to obtain approval for higher filtration rates than those specified in this section, a water supplier shall demonstrate to the Department that the filters can achieve an equal degree of performance.

5. Filtration rates shall be increased gradually when placing filters back into service following backwashing or any other interruption in the operation of the filter.

6. Pressure filters shall be physically inspected and evaluated annually for such factors as media condition, mudball formation, and short circuiting. A written record of the inspection shall be maintained at the treatment plant.

C. Disinfection facilities shall be operated in accordance with the following requirements:

1. A supply of chemicals necessary to provide continuous operation of disinfection facilities shall be maintained as a reserve or demonstrated to be available under all conditions and circumstances.

2. An emergency plan shall be developed prior to and implemented in the event of disinfection failure to prevent delivery to the distribution system of any undisinfected or inadequately disinfected water. The plan shall be posted in the treatment plant or other place readily accessible to the plant operator.

3. System redundancy and changeover systems shall be maintained and kept operational at all times to ensure no interruption in disinfection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:271 (March 1991), amended LR 26:

Section 5: Reporting

5.01. DHH Notification

The supplier shall notify DHH within 24 hours by telephone or other equally rapid means whenever:

A. The turbidity of the combined filter effluent as monitored exceeds 5.0 NTU at any time.

B. More than two consecutive turbidity samples of the combined filter effluent taken every four hours exceed 1.0 NTU.

C. There is a failure to maintain a minimum disinfectant residual of 0.2 mg/l in the water being delivered to the distribution system and whether or not the disinfectant residual was restored to at least 0.2 mg/l within four hours.

D. An event occurs which may affect the ability of the treatment plant to produce a safe, potable water including but not limited to spills of hazardous materials in the watershed and unit treatment process failures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:271 (March 1991), amended LR 26:

5.02. Monthly Report

A. Each supplier with a surface water or groundwater under the direct influence of surface water treatment facility shall submit a monthly report on the operation of each facility to the DHH by the 10th day of the following month.

B. The report shall include the following results of turbidity monitoring of the combined filter effluent:

1. All turbidity measurements taken during the month.

2. The number and percent of turbidity measurements taken during the month which are less than or equal to the performance standard specified for each filtration technology in Section 2.02, or as required for an alternative treatment process. The report shall also include the date and value of any turbidity measurements that exceed performance levels specified in Section 2.02.

3. The average daily turbidity level.

C. The report shall include the following disinfection monitoring results.

1. The date and duration of each instance when the disinfectant residual in water supplied to the distribution system is less than 0.2 mg/l and when the DHH was notified of the occurrence.

2. The following information on samples taken from the distribution system:

a. The number of samples where the disinfectant residual is measured.

b. The number of samples where only the heterotrophic plate count (HPC) is measured.

c. The number of measurements with no detectable disinfectant residual and no HPC is measured.

d. The number of measurements with no detectable disinfectant residual and HPC is greater than 500 colony forming units per milliliter.

e. The number of measurements where only HPC is measured and is greater than 500 colony forming units per milliliter.

D. The report shall include a written explanation of the cause of any violation of performance standards specified in Section 2.02, 2.03 or 2.04 and operating criteria specified in Section 4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:271 (March 1991), amended LR 26:

Section 6: Public Notification

6.01. Consumer Notification

1. The supplier shall notify persons served by the system whenever there is a failure to comply with the treatment technique requirements specified in Section 2.01 or performance standards specified in Sections 2.02, 2.03 and 2.04. The notification shall be give in a manner approved by the DHH, and shall include the following mandatory language:

"The La. Department of Health and Hospitals (DHH) sets drinking water standards and has determined that the presence of microbiological contaminants are a health concern at certain levels of exposure. If water is

inadequately treated, microbiological contaminants in that water may cause disease. Disease symptoms may include diarrhea, cramps, nausea, and possibly jaundice, and any associated headaches and fatigue. These symptoms, however are not just associated with disease-causing organisms in drinking water, but also may be caused by a number of factors other than your drinking water. DHH has set enforceable requirements for treating drinking water to reduce the risk of these adverse health effects. Treatment such as filtering and disinfecting the water removes or destroys microbiological contaminants. Drinking water which is treated to meet DHH requirements is associated with little to none of this risk and should be considered safe."

2. The supplier shall notify persons served by the system whenever there is a failure to comply with monitoring requirements specified in Section 3, the notification shall be given in the manner approved by DHH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:271 (March 1991), amended LR 26:

The Department of Health and Hospitals will conduct a public hearing at 10:00 a.m. on Tuesday, March 28, 2000, in Room 118 of the Blanche Appleby Computer Complex Bldg., (on the Jimmy Swaggert Ministry Campus), 6867 Bluebonnet Blvd., Baton Rouge. All interested persons are invited to attend and present data, views, comments, or arguments, orally and in writing.

In addition, all interested persons are invited to submit written comments on the proposed rule. Such comments must be received no later than Friday, March 31, 2000 at COB, 4:30 p.m., and should be submitted to R. Douglas Vincent, Chief Engineer, Office of Public Health, 6867 Bluebonnet Blvd. - Box 3, Baton Rouge, LA 70810 or faxed to (225) 765-5040.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Water Supplies (Chapter XII)

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

The Enforcement Unit of the Safe Drinking Water Program consists of 2 FTEs currently. It is the Enforcement Unit's job to draft administrative compliance orders and notices of imposition of penalties, etc., for the State Health Officer's signature. Adoption of this rule is not expected to significantly increase the workload of paperwork. Approximately \$4,631 is expected to be expended in FY 99-2000 for publication of the rule in the *Louisiana Register* and the printing of 500 copies for distribution to staff, the public (upon request), and the Offices of State Library.

Local governmental units may be affected by this proposed new rule if they: (1) own or operate a public water system serving greater than 10,000 individuals, (2) are issued an administrative compliance order by the state health officer; (3) violate one or more provisions of such order after the compliance deadline(s) specified therein expires; and, (4) the state health officer decides to impose a monetary penalty for

NOTICE OF INTENT

**Department of Labor
Office of the Secretary**

**Drug-Free Workplace and Drug Testing
(LAC 40:XXI.101)**

such noncompliance using the new authority granted by this proposed rule. Local governmental units owning or operating a public water system are already subject to the requirements of the existing Civil Penalty Assessment Rule (Appendix A) adopted in 1992. Therefore, the actual effect of the new rule would amount to potentially higher penalties than may currently be assessed, especially if more than one provision of the order was violated.

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

The purpose of the Safe Drinking Water Program's administrative order/penalty authority is to provide full and rapid compliance with requirements of the State Sanitary Code and other applicable laws and regulations relative to public water systems providing safe drinking water. Penalties are not intended to be revenue gathering mechanisms and the program is not dependent upon any penalty revenue to balance its budget. The state general fund could potentially see an increase in penalty funds being collected from noncomplying systems which are under an administrative order and which serves more than 10,000 individuals if the State Health Officer decides to utilize the "per violation per day" authority granted to him by statutory law and this rule.

Local governmental units which: (1) own or operate a public water system serving more than 10,000 individuals; (2) receive an administrative order from the State Health Officer; (3) fail to comply by the compliance deadline(s) stated therein; and, (4) receive a Notice of Imposition of Penalty from the State Health Officer which utilized the "per violation per day" basis instead of the existing "per package of violations per day" basis may be faced with a higher amount of penalty. If the local governmental unit chooses to utilize water rates to pay the penalty, this may in turn lead to yet a higher increase in water rates temporarily until the penalty is paid.

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

Any person, corporation, investor-owned utility company, etc., will be affected by this new rule if they: (1) own a public water system which serves greater than 10,000 individual; (2) are issued an administrative compliance order by the state health officer; (3) violate one or more provisions of such order after the compliance deadline(s) specified therein expires; and, (4) the state health officer decides to impose a monetary penalty for such noncompliance using the new authority granted by this proposed rule. Person, corporations, investor-owned utility companies, etc., are already subject to the requirements of the existing Civil Penalty Assessment Rule (Appendix A) adopted in 1992. Therefore, the actual effect of the new rule would amount to potentially higher penalties than may currently be assessed, especially if more than one provision of the order was violated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact is expected on competition and employment.

Madeline McAndrew
Assistant Secretary
0002#127

H. Gordon Monk
Staff Director
Legislative Fiscal Office

In accordance with the provisions for rule adoption under R.S. 49:950 et seq. of the Administration Procedure Act, and by virtue of the statutory authority vested by R.S. 36:304(3), notice is hereby given that the Office of the Secretary proposes to adopt the following rule.

The proposed adoption of such rule shall serve to fulfill the commitment of Executive Order MJF 98-38 for a drug-free workplace for the public employees of Louisiana and to therewith develop and implement drug testing programs pursuant to R.S. 49:1001, et seq.

All interested persons are invited to submit data, views, comments, or arguments, in writing, on the proposed rule to Dawn Watson, Deputy Secretary, Attention: Denise Nagel, Department of Labor, Box 94094, Baton Rouge, LA 70804-9094, or by FAX (225) 342-9771 no later than 5 p.m., Friday, March 24, 2000.

A public hearing shall be held on Wednesday, March 29, 2000, at 1:30 p.m. in the fourth floor conference room, Administrative Building of the Department of Labor, 1001 North 23rd Street, Baton Rouge, LA 70802.

Family Impact Statement

1. Effect on the Stability of the Family. These rules should have no effect on the stability of the family. These rules regulate drug testing of department employees in the workplace.

2. Effect of the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. These rules do not address education or parental supervision.

3. Effect on the Functioning of the Family. These rules should not impact the functioning of the family. The drug testing program does not impose any cost on the family.

4. Effect on Family Earnings and Family Budget. These rules should have no effect on family earnings.

5. Effect on the Behavior and Personal Responsibility of Children. These rules should have no effect on the behavior and personal responsibility of children as the rules apply only to department employees.

6. Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. These rules do not make any requirements on the family. These rules only apply to department employees.

Title 40

DEPARTMENT OF LABOR

**Part XXI. A Drug-Free Workplace and Drug Testing
Chapter 1. General Provisions
§101. Drug Testing**

A. Declaration of Policy

1. The employees of the state of Louisiana are among the state's most valuable resources, and the physical and

mental well being of these employees is necessary for them to properly carry out their responsibilities. Substance abuse causes serious adverse consequences to users, impacting on their productivity, health and safety, dependents, and co-workers, as well as the general public.

2. The state of Louisiana has a long-standing commitment to working toward a drug-free workplace. In order to curb the use of illegal drugs by employees of the state of Louisiana, the Louisiana Legislature enacted laws, which provide for the creation and implementation of drug testing programs for state employees. Further, the Governor of the state of Louisiana issued Executive Order 98-38 providing for the promulgation by executive agencies of written policies mandating drug testing of employees, appointees, prospective employees and prospective appointees, pursuant to R.S. 49:1001, et seq.

3. The Department of Labor fully supports these efforts and is committed to maintaining a drug-free workplace, and a workforce free of substance abuse.

4. Employees are prohibited from reporting for work or performing work for the department with the presence in their bodies of illegal drugs, controlled substances, or designer (synthetic) drugs at or above the initial testing levels and confirmatory testing levels as established in the contract between the state of Louisiana and the official provider of drug testing services. Employees are further prohibited from the illegal use, possession, dispensation, distribution, manufacture, or sale of controlled substances, designer (synthetic) drugs, and illegal drugs at the work site and while on official state business, on duty or on call for duty.

5. To assure maintenance of a drug-free workforce, the Department of Labor shall implement a program of drug testing, in accordance with Executive Order No. MJF 98-38. R.S. 49:1001, et seq., and all other applicable federal and state laws, as set forth below.

B. Applicability

1. This policy shall serve as notice and shall apply to all employees and appointees of this department as well as potential employees and potential appointees. All persons having an employment relationship, whether classified, unclassified, student employees, student interns, full-time, part-time or temporary, such as restricted and job appointments are subject to this policy.

C. Responsibility

1. All employees are responsible for reporting for duty in the physical and emotional condition that maximizes his/her ability to perform assigned tasks in a competent and safe manner.

2. All employees are responsible for promptly and cooperatively submitting to drug testing when required to do so.

3. The human resources director, after approval by the appointing authority, is responsible for:

- a. administering the drug testing program;
- b. determining when drug testing is appropriate;
- c. receiving, acting on, and holding confidential all information received from the testing service provider and from the medical review officer; and
- d. collecting all appropriate documents necessary for the department's defense in the event of legal challenge.

This will be done in consultation with the applicable appointing authority.

4. All supervisory personnel are responsible for:

- a. assuring that each employee under their supervision receives a copy of this policy,
- b. signs a receipt form, and understands or is given the opportunity to understand and
- c. have questions answered about its content.

5. The secretary of labor is responsible for the overall compliance with this policy and shall submit to the Office of the Governor, through the commissioner of administration, a report on this policy and drug testing program, describing progress, the number of employees affected, the categories of testing being conducted, the associated costs of testing, and the effectiveness of the program by November 1 of each year.

D. Definitions

Controlled Substance a drug, chemical substance or immediate precursor in Schedules I through V of R.S. 40:964 or Section 202 of the Controlled Substances Act (21 U.S.C. 812).

Designer (Synthetic) Drugs Those chemical substances that are made in clandestine laboratories where the molecular structure of both legal and illegal drugs is altered to create a drug that is not explicitly banned by federal law.

Employee unclassified, classified, and student employees, student interns, and any other person having an employment relationship with the agency, regardless of the appointment type (e.g. full time, part time, temporary, etc.).

Illegal Drug any drug which is not legally obtainable or which has not been legally obtained to include prescribed drugs not legally obtained and prescribed drugs not being used for prescribed purposes or being used by one other than the person for whom prescribed.

E. Violation of the Policy

1. Violation of this policy, including refusal to submit to drug testing, will result in adverse actions, including termination of employment. Each violation and alleged violation of this policy will be handled on an individual basis, taking into account all data, including the risk to self, fellow employees, and the general public. Disciplinary action will be taken after a complete and thorough review of the applicable data in accordance with Chapter 12 of the Civil Service Rules. Employees will be provided predeprivation notice and an opportunity to respond prior to any recommended disciplinary action.

2. Illustrative examples of violations of such drug-testing policy which shall cause recommendation for disciplinary action include but are not limited to:

- a. refusal to submit to a drug test;
- b. failure to cooperate in any way which prevents the timely completion of a drug test;
- c. submission of an adulterated or substitute sample for drug testing;
- d. buying, selling, dispensing, distributing, possessing, using, any illegal or unauthorized substance;
- e. operating any vehicle while on duty under the influence of drugs;
- f. positive drug test result.

F. Policy Acknowledgment

1. Each employee, as defined herein, present and future, shall acknowledge his receipt of a copy of this drug-

testing policy and his understanding of responsibility under its provisions by completing the below form, made a part therein. This policy may require revisions and the department reserves the right to revise and amend this rule as needed. All revisions shall be submitted to all employees to ensure that every individual remains aware of their rights and responsibilities accordingly. Questions concerning this policy may be addressed to the Human Resources Division of this department.

2. The following Policy Receipt Acknowledgment form shall be signed by all employees as defined herein, as formal acknowledgment of receipt of the drug testing policy of the department:

Policy Receipt Acknowledgment

I have received a copy of the Louisiana Department of Labor Drug Testing Policy. I agree to comply with the policy, procedures and guidelines and fully cooperate with and submit to the drug testing procedures as outlined in this policy. I understand that it is my responsibility to read and familiarize myself with the policy, procedures and guidelines, and that if I have any questions I may contact the Human Resources Division at (225) 342-3055.

I further understand that compliance with this policy is a condition of my employment and continued employment.

Name (Print)

Name (Signature)

Date

Louisiana Law mandates that this drug policy apply to all state employees. Failure to sign this receipt does not exempt you from this policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:304(3).

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of the Secretary, LR 26:

Dawn Watson
Deputy Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Drug-Free Workplace and Drug Testing

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

In order to conduct drug testing for all new hires and to implement random employee testing, including any promotions to safety-sensitive positions and any suspicious accidents which may occur within the fiscal year of 2000-01, the estimated statewide costs are \$9,024 at \$23.50 per test, for all agency offices under the state contract with Secon Drug Screening Company, as follows:

Projected New Hires of 264 (based upon the average of the fourth quarter, 1999)	\$6,204.00
Projected Random Employee Testing of 120, including safety-sensitive promotions (based on 10 employees per month)	\$2,820.00
Total Estimated Implementation Costs	\$9,024.00

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

There shall be no effect on revenue collections of state or local government units as the result if implementation of a rule for a drug-free workplace and drug testing.

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

The implementation of a drug testing policy shall not cause agency employees to incur any costs, other than to be subject to disciplinary or corrective action for positive test results.

There shall neither be any economic benefits gained by agency employees under such policy, other than the degree of chance of hire or promotion in comparison to other competing individuals who test positive to drug testing.

No other known persons or nongovernmental groups are anticipated to economically gain from the implementation of such drug testing policy, other than the general public of the state of Louisiana shall be better assured of the safety and productivity of state government.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the aforementioned degree of chance of hire or promotion shall be significant.

Dawn R. Watson
Deputy Secretary
0002#091

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation**

Statewide Order No. 29-B~~C~~ Financial Security
(LAC 43:XIX.104)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Natural Resources, Office of Conservation hereby amends Statewide Order No. 29-B.

**Title 43
NATURAL RESOURCES
Part XIX. Office of Conservation
Subpart 1. Statewide Order No. 29-B**

**Chapter 1. General Provisions
§104. Financial Security**

A. Financial security must be provided for each well permitted for exploration and/or production of minerals or non-commercial Class II injection after the effective date of this rule in order to ensure that such well is plugged and abandoned and associated site restoration is accomplished in accordance with the following.

1. An operator of record who has exhibited a record of compliance with Office of Conservation rules and regulations as set forth in Statewide Order No. 29-B for a period of 48 months preceding the permit date of the well in question shall provide a certificate of deposit, appropriate bond or letter of credit in a form acceptable to the commissioner of conservation within 30 days of completion date or date said well is retained for future utility as reported on Form Comp or Form WH-1 as appropriate.

2. An operator of record who has not been a registered operator of record for a period of 48 months preceding the permit date of the well in question or an operator of record

who has not exhibited a record of compliance for a period of 48 months preceding the permit date of the well in question shall provide a certificate of deposit, appropriate bond or letter of credit in a form acceptable to the commissioner of conservation prior to issuance of permit to drill.

3. No Application to Amend Permit to Drill for Minerals for change of operator on any well subject to this Rule will be approved by the Office of Conservation until such time as financial security is in effect.

4. Plugging and abandonment of a well, associated site restoration, and release of financial security constitutes a presumption of proper closure but does not relieve the operator of record from further claim by the commissioner of conservation should it be determined that further remedial action is required.

B. Compliance with this financial security requirement shall be provided by any of the following or a combination thereof:

1. certificate of deposit issued in sole favor of the Office of Conservation from a financial institution authorized to do business in the state of Louisiana. A certificate of deposit may not be withdrawn, canceled, rolled over or amended in any manner without the approval of the Office of Conservation; or

2. an individual well bond or a blanket well bond (multiple wells) in a form prescribed by the commissioner of conservation and issued by an appropriate institution authorized to do business in the state of Louisiana in sole favor of the Office of Conservation; or

3. letter of credit issued by a financial institution authorized to do business in the state of Louisiana in a form prescribed by the commissioner of conservation.

Financial security shall remain in effect until release thereof is granted by the commissioner of conservation pursuant to written request by the operator of record. Such release shall only be granted after plugging and abandonment and associated site restoration is completed and inspection thereof indicates compliance with applicable regulations. In the event provider of financial security becomes insolvent, operator of record shall provide substitute form of financial security within 30 days of notification thereof.

C. Financial Security Amount

1. Individual well financial security shall be provided in accordance with the following:

a. land location (any location not requiring a drill barge, drill ship, jack-up rig, etc.)-\$2.00 for each foot of well depth for wells less than or equal to 5,000 feet.

b. land location (any location not requiring a drill barge, drill ship, jack-up rig, etc.)-\$3.00 for each foot of well depth for wells greater than 5,000 feet.

c. water location (any location requiring a drill barge, drill ship, jack-up rig, etc.)-\$8.00 for each foot of well depth.

2. Blanket financial security shall be provided in accordance with the following:

Total Number of Wells	Amount
#10	\$ 50,000.00
11-99	\$250,000.00
>100	\$500,000.00

3. The amount of the financial security as specified above may be increased at the discretion of the commissioner of conservation based on the compliance history of the operator of record and/or the determination by the commissioner of conservation that the location of the drill site is in an environmentally sensitive area.

4. In addition to the foregoing, the commissioner of conservation retains the right to utilize such bond in responding to an emergency which is of such magnitude as to require immediate action to prevent substantial or irreparable damage to the environment or a serious threat to life or safety based on recognized criteria, standards, or industry practices upon failure of the operator of record to begin abatement procedures within twenty-four hours of the commissioner of conservation declaring in writing that an emergency exists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943), amended by the Department of Natural Resources, Office of Conservation LR26:

In accordance with the provisions of LSA-R.S. 49:951 et seq. and LSA-R.S. 30:4, notice is hereby given that the Commissioner of Conservation will conduct a public hearing at 9:00 a.m. on Wednesday, March 29, 2000, in the Conservation Auditorium, located on the First Floor of the State Land & Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana.

At such hearing the Commissioner of Conservation shall consider an amendment of LAC 43:XIX.101 et seq. (Statewide Order No. 29-B) that will promulgate regulations regarding financial security requirements for all new well permitted for minerals/class II injection on and after the effective date of this amendment.

A copy of proposed amendment to LAC 43:XIX.101 et seq. (Statewide Order No. 29-B) can be obtained in person at the following address: Office of Conservation, Engineering Division-Room 102, 625 North 4th Street, Baton Rouge, LA.

Written request for proposed amendment to LAC 43:XIX.101 et seq. (Statewide Order No. 29-B) should be addressed to: Office of Conservation, Engineering Division-Room 102, P. O. Box 94275-Capitol Station, Baton Rouge, Louisiana 70804-9275.

All interested parties will be afforded the opportunity to submit data, views, or arguments, orally or in writing at said public hearing in accordance with LSA-R.S. 49:953. Written comments will be accepted until 4:30 p.m., Wednesday, April 5, 2000 at the following address: Office of Conservation, Engineering Division-Room 102, P.O. Box 94275, Baton Rouge, LA 70804-9275.

Total Number of Wells <5000'	Amount
#10	\$ 25,000.00
11-99	\$125,000.00
>100	\$250,000.00

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Statewide Order
No. 29-B Financial Security**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be no implementation costs (savings) to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections to state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The oil and gas industry will be directly affected by this proposed rule. FY 99-00=\$31,977 FY 00-01=\$320,495 FY 01-02=\$456,759 FY 98/99 drilling activity projected through FY 01-02. Total footage adjusted for operator of record history, completed/future utility wells, and blanket/individual well bond considerations. Cost figure of three percent of bond value utilized in calculations.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Philip N. Asproditis Robert E. Hosse
Commissioner General Government Section Director
0002#112 Legislative Fiscal Office

NOTICE OF INTENT

**Board of New Orleans and Baton Rouge
Steamship Pilot Commission**

Steamship Pilots(LAC 46:LXXVI.Chapter1)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners for the Mississippi River hereby gives notice of intent to repeal the prior rules enacted in Louisiana Register, Vol. 14, number 5, May 20, 1988 and hereinafter promulgate re-enactment of those previous rules and/or promulgate rules as to definitions, appointments of commissioners, rules and records of meetings, examination of pilots, ability to form an association, report of incompetency and removal of pilots, together with rules of minimum requirements, applicants, examination, and appointments relative to the commission of steamship pilots.

As per state law, in order to further enhance the safety and well being of the citizens of Louisiana, as well as prevent any possible imminent peril to public health, safety, and welfare, the Board of New Orleans-Baton Rouge Steamship Pilot Commissioners for the Mississippi River from the Port of New Orleans to and including the Port of Baton Rouge and intermediate ports adopts the following actions pertaining to the rules and regulations:

1. Abolish the existing rules in order to clarify the purpose, authority and procedures of the Commission. This

is accomplished via constructing new rules in lieu of the amendment process.

2. The new rules are formulated using existing Louisiana Statutes, the intent and procedural precedents of the prior rules as a foundation for effecting a cleaner and more efficient system for oversight of the pilotage under the commission's jurisdiction.

In substance, the new rules differ from the old in that they clarify the method and guidelines for making recommendations to the governor, selecting new commissioners, as well as defining the commission's authority and funding. The new document updates the criteria for rulemaking and application, record keeping, notices and meetings. Further, the new regulations provide for higher standards and qualifications for applicants and associations, and clearly defines the commission's legal authority and duty in the investigative and disciplinary process.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXXVI. Steamship Pilots

Chapter 1. New Orleans and Baton Rouge Port Pilots

§101. Definitions

Association shall mean pilot members of the New Orleans-Baton Rouge Steamship Pilot Association.

Board of Commissioners (hereinafter used interchangeably as Board, Commission, or Examiners) shall mean the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners for the Mississippi River, as designated in R.S. 34:1042.

Examiner shall mean those individuals appointed as per law.

Master License shall mean the license issued by the United States Coast Guard.

Pilot shall mean a New Orleans and Baton Rouge Steamship Pilot, as designated in R.S. 34: 1043.

Service Time shall mean the applicant's service time on the Mississippi River.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:000 (February 2000).

§103. Board of Steamship Pilot Commissioner

A. When there is a need for new commissioners, the Board of Commissioners shall make the recommendations to the governor in accordance with the law and in compliance with the commission rules.

B. When this need arises, the commissioners shall take into consideration the following in making their recommendations:

- 1. ability to serve;
- 2. qualifications;
- 3. length of service as a commissioned pilot.

C. Commissioners in the performance of their statutory duties have the exclusive and complete authority to determine their work schedule. Further, commissioners shall not suffer any loss of benefits or compensation while they are performing their duties.

D. All ordinary and necessary operating and administrative costs and expenses, including, but not limited

to, the cost of administrative offices, furniture and fixtures, communications, transportation, office supplies and equipment, publications, travel, pilot commissioners' compensation, attorney fees, expert fees, costs, expenses of litigation or any other expenses whatsoever incurred by the commission while performing their/ its duties shall be provided by the pilots and paid through their pilot association.

E. The Commissioners shall maintain an office and conduct business as is necessary to fulfill its legislative manda and/or as may be required by the rules herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:000 (February 2000).

§105. Rules, Records, Meetings, Application

A. All commission rules must be adopted by a majority of the commissioners, further, they must be submitted for legal approval before they are submitted for final approval and adoption. The Board of Commissioners shall maintain records in accordance with R.S. 49:950 et seq., and any other state laws. The Board of Commissioners shall file an annual report of investigations, findings, actions and accident data in accordance with state laws. The Board of Commissioner shall conduct its meeting in accordance with R.S. 49:950 et seq., and any other state laws.

B. The commissioners shall hold quarterly meetings on the call of the president. The president has the prerogative of calling additional meetings as needed to conduct business on giving said notice as per law.

C. These rules shall apply to all New Orleans and Baton Rouge Steamship Pilots engaged in his/her calling within the operation territory defined in R.S. 34:1043.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:000 (February 2000).

§107. Minimum Requirements, Applicants, Examination, Appointments

A. All applications for commissions to serve as a New Orleans and Baton Rouge Steamship Pilot must be in writing, must be signed by the applicant, and presented to the President of the Board for commissioner. All applications must be accompanied by satisfactory evidence of compliance with the following prerequisites:

1. applicant must hold a First Class Pilot's License of "any" gross tons, (the word "any" as interpreted by the United States Coast Guard) for the Mississippi River from Chalmette, Louisiana, to Baton Rouge Railroad and Highway Bridge at Baton Rouge, Louisiana issued to him or her by the United States Coast Guard, and

2. also be licensed as:

a. Master of Rivers or Inland Steam or Motor vessels; or

b. licensed as Master or Mate of Ocean Steam or Motor vessels; or

c. have acquired a college degree or an associates degree granted by a college or university accredited by the American Association of Colleges and Secondary Schools and

3. must have completed a Ship Handling Simulator course and a Bridge Resource Management course or any other industry related course that the Board of Examiners may deem as relevant and necessary.

B. As of January 1, 2005, all applicants for commission to serve as New Orleans and Baton Rouge Steamship Pilots, in addition to Section A (1)(2) and (3) hereinabove:

1. must be licensed as Master of Rivers or Inland Steam or Motor vessels; or

2. must be licensed as Master or Mate of Ocean Steam or Motor vessels, and must have one year service on his or her license; or

3. must have successfully acquired an associates degree or have achieved an equivalent of sixty hours of credit from an accredited college or university, and must have six month service on his or her license; or

4. must have achieved a college degree from an accredited college or university and must have one year service on his or her license.

C. As of January 1, 2010, all applicants for commission to serve as New Orleans and Baton Rouge Steamship Pilots must, in addition to Section A(1)(2) and (3) hereinabove:

1. must be licensed as Master of Rivers or Inland Steam or Motor vessels of 1600 gross tons; or

2. must be licensed as Master or Mate of Ocean Steam or Motor vessels of 1600 gross tons and have two years service on his or her license; or

3. must have successfully acquired an associates degree, or have achieved an equivalent sixty hours of credit from an accredited college or university, and have one year service on his or her license; or

4. must have successfully acquired a college degree from an accredited college or university.

5. applicant shall not have reached his or her forty-fifth birthday before being commissioned;

6. applicant must submit evidence of possessing a high school diploma or G.E.D.;

7. applicant must be a registered voter of the State of Louisiana for a minimum of one year;

8. applicant must submit evidence of good moral character;

9. applicant must submit to the Board of Examiners, a certificate that applicant is in good health and physical condition and such examination shall meet approved maritime standards;

10. applicant must submit to and pass a drug screen test that is dated within thirty days of the application submission;

11. applicant must sign an obligation to abide by the Charter, By-Laws, Rules and Regulations of the New Orleans and Baton Rouge Steamship Pilots Association and the Board of Commissioners;

12. applicant must have been duly elected an apprentice in the New Orleans Baton Rouge Steamship Pilots Association as per such Association Rules in effect as of such application;

13. applicant must serve an orientation period over the route, as an apprentice ship pilot, for not less than twelve months, which may be extended up to (1) one additional year as may be determined by the Board of Pilot Commissioners. If after the (1) one year extension apprenticeship period the applicant fails to meet the criteria

and standards of the Board, then said applicant shall be released from the apprenticeship program. The criteria and standards of the Board include but are not limited to:

- a. an applicant's recklessness and display of lack of judgment;
- b. disregard of state rules, laws, and regulations;
- c. disregard of Coast Guard rules and regulations;
- d. unfit for the position and job of a river pilot;
- e. lack of moral integrity, veracity, ability, capability, and any other such issues, complaints, or questions brought by any responsible party to the attention of the Board.

D. Examination by the Board of Commissioners

1. All applicants must successfully complete an oral and/or written examination to be conducted by the Board of Commissioners.

2. Those applicants who have complied with all of the provisions herein shall be examined by the Examiners as to the applicant's knowledge of pilotage and demonstrate the applicant's proficiency and capability to serve as commissioned pilot. This examination shall be given in such a manner and shall take such form as the Board, in its sole discretion, from time to time as the Board shall determine.

E. Restrictive Job Assignments

1. Those applicants who satisfactorily complete the examination given by the Board shall be certified to the governor as per law. Such certifications may be restrictive in job assignments, including but not limited to, vessel size and/or draft for new appointees for a specified period of time.

2. Restrictive job assignment period shall be twenty-four months in duration; this period shall be in three periods of eight months each during which the pilot will be assigned vessels of a restricted size to be determined and set by the Commission; after each eight month period the applicant may graduate to a larger size vessel, all to be determined by the Commission; the vessel size limitation for these restricted periods shall be established exclusively by the Commission; such limitations shall be at the unilateral discretion of the Commission at all times material hereto; limitations established by the Commission shall be based, but not exclusively, on a ratio of the most recent Association determination of the average size vessel piloted on the Commission route.

F. Commissioned pilots shall comply with all requirements to maintain their state commission and such other certifications as determined by the Board of Pilot Commissioners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:000 (February 2000).

§109. Association of Pilots

A. The pilots may form themselves into an association or associations, as to they may seem fit, not in conflict with the rules and regulations of the Board of Commissioners.

B. The formation of any association incorporated or non-incorporated which is for the purpose of providing pilotage service under the law, including but not limited to R.S. 34:1047, must be submitted to the Commission for approval. Such applications must meet all legal requirements, provide for a stable pilotage system, serve the best interest of the

majority of pilots and protect the life and property of the region.

C. The Board of Commissioners hereby recognizes the fact that the New Orleans and Baton Rouge pilots have formed themselves into a legal registered corporation known as the New Orleans and Baton Rouge Steamship Pilots Association; further, let it be recognized by the Commission that the said pilot Association has operated and is now operating within all state laws and is not known to be in conflict with the rules and regulations of the Board of Commissioners.

D. No pilot association, incorporated or non-incorporated, has any authority to impose or legislate any rules, bylaws or charter provisions affecting the Commission; further, any attempt to exercise any authority over or affecting the commission is a violation of the rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:000 (February 2000).

§111. Report of Incompetency, Carelessness of Pilots, Removal, Suspension

A. In any case, where a vessel under pilotage shall go aground, or shall collide with any other object, or shall meet with any casualty, or be injured or damaged in any way, said Commission shall conduct a preliminary investigation into the casualty to determine if there are any violations of the law or commission rules.

B. When probable cause is found, said commission shall report its findings to the governor. The governor shall, thereupon, refer the case to the Board of Commissioners for formal investigation. The Board shall investigate and report its findings with recommendations to the governor, whereupon, the governor may take action in his discretion.

C. All formal investigations shall be conducted in accordance with R.S. 49:950 et seq.

D. In any case, where a vessel under pilotage shall go aground, or shall collide with any other object, or shall meet with any casualty, or be injured or damaged in any way, said pilot shall report such casualties as follows:

1. report the casualty by whatever means available to the Board of Commissioners as soon as practical.

2. be available for interview by the commission and furnish complete details of the casualty.

3. make a written report to the Board of Commissioners as soon as practical.

E. Interviews and written reports to the board, which may thereupon, with or without complaint being made against said pilot, investigate the matter reported on.

F. Any pilot who shall, neglect, or refuse to make a verbal or written report to the Board as required by these rules, shall be reported to the Governor for action pursuant to law.

G. Any pilot requested or summoned to testify before the Board shall appear in accordance with said request or summons and shall make answers under oath to any questions put to him/her related to or in any way connected with the pilot's service or the pilot's territory over which he/she is licensed to pilot.

H. In any case, where the commission finds or suspects a violation of the law, or in a violation of its rules, they may charge the pilot with misconduct and remove him from duty,

however, this rule shall not abrogate any of his/her rights pursuant to all applicable laws.

I. When an investigation uncovers dangerous and/or unsafe condition and/or conditions that may jeopardized the interests, safety, health, or welfare of the pilots, vessels, cargo, property or individuals, the Commission may make recommendations for the corrective measures.

J. A pilot shall not under any circumstances make any statement to anyone until such pilot or pilots have has legal counsel when he/she is involved in a casualty, or any other complaint.

L. Any commissioner who with probable cause and/or has reason to believe, suspect, and/or knows that a pilot is or has been or may be under the influence of drugs, alcohol, or any other stimulant or depressant that may affect the performance of that pilot, or has been charged with misconduct, while subject to commission rules and/or state pilotage laws, that Commissioner in his/her discretion may immediately relieve that pilot without the necessity of formal notice and hearing from pilotage duty, in order to protect the interest, safety, health or welfare of fellow pilots, vessels, cargo, property or individuals. Further, at the earliest practical time, the Commission must request permission from the Governor, per law, to conduct the appropriate formal hearing or hearings which satisfies and protects the due process and equal protection requirements as afforded that pilot by the state and federal constitutions.

M. No person shall engage in any activities concerning the members of the New Orleans and Baton Rouge steamship pilots unless said person has been elected or appointed to do so by one of the governing boards.

N. No member of the Board of Pilot Commissioners, in the discharge of his/her duty or responsibility of his/her office will vote on a matter in which he/she is a party to or has a conflict of interest. In such cases, he/she shall automatically be recused from participating in or voting on such matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:000 (February 2000).

§113. Severability

It is understood that any provision and/or requirement herein that is deemed invalid and unenforceable for any reason whatsoever, that it may be severed from the whole and that the remaining provisions and/or requirements shall be deemed valid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:000 (February 2000).

Interested parties may submit written comments to Martin W. Gould, Sr., 3900 River Road, Suite 5, Jefferson , Louisiana 70121.

Martin W. Gould, Sr.
President

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Steamship Pilots

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

The proposed rule changes will require the printing of new rule books estimated at a one time cost of \$50. The cost to the Commission of providing proposed due process protection to any pilot accused of violation of laws or Commission rules cannot be determined and would depend upon the number of such actions taken by the Commission. Pilots charged with a violation of law is handled through the Administrative Procedures Act and all expenses are paid by the association.

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

The proposed rule changes will have no effect on revenue collection of state or local government units.

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

The proposed rule changes clarify and strengthen the Commission rules regarding pilot misuse of drugs, stimulants and depressants. Accordingly, to the extent that pilots now use such substances, such use should decrease, and resultant pilot safety performance should increase. The costs or benefits to pilots and the general public of this action cannot be determined. The qualification requirements are upgraded to meet the standards of the government and the average of other pilot associations in the country.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule change will have no effect on competition and employment.

Martin W. Gould, Sr.
President
0002#110

Robert E. Hosse
General Government Section Director
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

Family Independence Temporary Assistance Program (FITAP) Application, Eligibility, and Furnishing Assistance (LAC 67.III.1223, 1225, and 1229)

The Department of Social Services, Office of Family Support, proposes to amend the *Louisiana Administrative Code*, Title 67, Part III, Subpart 2, the Family Independence Temporary Assistance Program (FITAP).

Pursuant to the authority granted to the Department by the Louisiana Temporary Assistance to Needy Families (TANF) Block Grant, the agency proposes to amend §1223 to more accurately define citizenship, §1225 to delete the good cause provision for failure to apply for a social security number, and §1229 to amend language regarding the income and resources of alien sponsors. These changes result from an advisement of the U.S. Department of Health and Human Services, Administration for Children and Families concerning the TANF State Plan.

Title 67
SOCIAL SERVICES
Part III. Office of Family Support
Subpart 2. Family Independence Temporary Assistance
Program (FITAP)
Chapter 12. Application, Eligibility, and Furnishing
Assistance
Subchapter B. Conditions of Eligibility

§1223. Citizenship

A. 1. - 8. ...

9. an alien child of a battered parent or the alien parent of a battered child as described in 8 above.

B. Time-limited Benefits. A qualified alien who enters the United States on or after August 22, 1996 is ineligible for five years from the date of entry into the United States unless:

B. 1. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2448 (December 1999), LR 26:

§1225. Enumeration

A. Each applicant for, or recipient of, FITAP is required to furnish a Social Security number or to apply for a Social Security number if such number has not been issued or is not known.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2449 (December 1999), LR 26:

§1229. Income

A. - E. ...

F. Income and Resources of Alien Sponsors

1. In determining the eligibility and benefits of an alien with an affidavit of support executed under 213A of the INA (8 U.S.C. 1183a), the income and resources of the sponsor and the sponsor's spouse shall be considered except as follows in §1229.F.a-b. This attribution shall continue for the period prescribed in 8 U.S.C. 1631.

a. Indigence exception. If an alien has been determined indigent, as provided in 8 U.S.C. 1631(e), the amount of income and resources of the sponsor or the sponsor's spouse which shall be attributed to the alien shall not exceed the amount actually provided for a period beginning on the date of such determination and ending 12 months after such date.

b. Special rule for battered spouse and child. If an alien meets the requirements of the special rule for a battered spouse or child, as provided in 8 U.S.C. 1631(f), and subject to the limitations provided therein, the provisions of §1229.F.1. shall not apply during a twelve-month period. After a twelve-month period, the batterer's income and resources shall not be considered if the alien demonstrates that the battery and cruelty as defined in 8 U.S.C. 1631(f)(1)

has been recognized in an order of a judge or administrative law judge or a prior determination of the Immigration and Naturalization Service, and that such battery or cruelty has, in the Department's opinion, a substantial connection to the need for benefits.

2. The agency has opted not to apply the deeming rule of 42 U.S.C. 608 in determining the eligibility and benefits of non-213A aliens.

G. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B., R.S. 46:231.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2449 (December 1999), LR 26:

Interested persons may submit written comments by March 28, 2000 to the following: Vera W. Blakes, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA 70804-9065. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on March 28, 2000 at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, LA beginning at 9:00 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code 225-342-4120 (Voice and TDD).

Family Impact Statement

1. What effect will this rule have on the stability of the family? This rule will have no effect on the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? There will be no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? There will be no effect on the functioning of the family.

4. What effect will this have on family earnings and family budget? There will be no impact on family earnings or family budget.

5. What effect will this have on the behavior and personal responsibility of children? There will be no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed rule? Assistance is provided to families which meet the financial eligibility requirements and are, thus, unable to fully meet the financial needs of eligible children. Assistance which may be provided by local governments is considered in determining eligibility.

J. Renea Austin-Duffin
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Family Independence Temporary
Assistance Program (FITAP) Application, Eligibility,
and Furnishing Assistance Program**

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

There are no costs or savings anticipated for changes made at §§1223, 1225 and 1229 except the minimum cost of publishing the rule.

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

There is no effect on revenue collection of state or local governmental units.

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

There are no estimated costs and/or economic benefits to any persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The proposed rule will have no impact on competition and employment.

Vera W. Blakes
Assistant Secretary
0002#123

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

Support Enforcement Services Child Support
Application Fee (LAC 67:III.2521)

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 4, Support Enforcement Services (SES), the child support enforcement program.

Due to a change in the method of reimbursement for program costs to District Attorneys' offices contracted to provide child support services, all application fees will now be retained by SES. Under previous contracts, some offices of the District Attorney retained the nonfederal share of application fees collected. Language in §2521 concerning this matter must, therefore, be deleted.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 4. Support Enforcement Services

Chapter 25. Support Enforcement

Subchapter E. Individuals Not Otherwise Eligible

§2521. Child Support Application Fee

A. SES will charge an application fee of \$25 to each individual who applies for services and does not receive FITAP, MEDICAID, or IV-E Foster Care. A fee is not required if an applicant reapplies for child support through SES within six months after a case is closed, unless the case was closed at the applicant's request or for failure to cooperate.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 302.33 and 45 CFR 302.51.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:115 (February 1986), amended by the Department of Social Services, Office of Family Support, LR 24:957 (May 1998), LR 26:

All interested persons may submit written comments through March 28, 2000, to Vera W. Blakes, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA 70804-9065.

A public hearing will be held on the proposed rule on March 28, 2000, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, LA 70802, beginning at 9:00 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code 225-342-4120 (Voice and TDD).

Family Impact Statement

1. What effect will this rule have on the stability of the family? The proposed rule will not affect the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This rule will not affect the functioning of the family.

4. What effect will this have on family earnings and family budget? This rule will not affect the family earnings or family budget. This rule redirects 100 percent of the application fee to Support Enforcement Services instead of partial amounts being retained by the District Attorney's office.

5. What effect will this have on the behavior and personal responsibility of children? This rule will not affect the behavior or personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed rule? No, the rule concerns a change in District Attorneys' contracts with state government (SES).

J. Renea Austin-Duffin
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Support Enforcement Services
Child Support Application Fee**

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

The only cost of implementation is the minimal cost of printing policy revisions and publishing the rulemaking. No savings to the state is anticipated, and there are no anticipated costs or savings to local governmental units.

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

This rule results in a slight increase in revenue to Support Enforcement Services (SES). Previously, District Attorneys retained 30 percent of application fees. With this change, SES

will not retain the 30 percent share of all application fees, estimated to be \$42,900.

Offices of the District Attorney do not lose revenue, however, since under new contracts District Attorneys are reimbursed all of their costs in SES matters.

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

There is no cost or benefit to any persons or nongovernmental groups since the application fee amount has not changed.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition and employment.

Vera W. Blakes
Assistant Secretary
0002#124

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Office of the Secretary Bureau of Licensing

Class "B" Child Day Care (LAC 48:I.Chapter 53)

The Department of Social Services, Office of the Secretary, Bureau of Licensing, proposes to repeal §§5355-5733 and promulgate the following in Title 48, Part I, Subpart 3, Licensing and Certification.

This proposed rule is authorized by Revised Statute 46:1401 et seq.

These standards have been revised to supersede any previous regulations heretofore published.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 53. Day Care Centers

§5355. Purpose

A. Licensing Authority

1. The Louisiana Committee on Private Child Care shall meet to develop minimum standards for licensure of Class B facilities and consult with the Department on matters pertaining to decisions to revoke or refuse to grant Class B license. The licensing authority of this committee is established by Chapter 14 of Title 46 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 46:1401 et seq., relative to the licensing and regulation of child care facilities and child placing agencies.

2. The law provides a penalty for operating a center without a valid license (see R.S. 1421). The penalty for the operation of a center without a valid license is a fine "of not less than \$75 not more than \$250 for each day of operation without a license".

3. If any child care facility operates without a valid license issued by the Department, the Department may file suit in the district court in the parish in which the facility is located for injunctive relief. This injunctive order may include a temporary restraining order to restrain the institution, society, agency, corporation, person or persons,

or any other group operating the child care facility from continuing the violation.

4. It shall be the duty of the department, through its duly authorized agents, to inspect at regular intervals all child care facilities and child-placing agencies that are subject to the provisions of the law. These inspections are not to exceed one year, and will be made as deemed necessary by the department without previous notice.

B. Waivers

1. The Secretary of the Department of Social Services, in specific instances, may waive compliance with a minimum standard if it is determined that the economic impact is sufficiently great to make compliance impractical. These standards may be waived as long as the health and well being of the staff and/or the children are not placed in danger. If it is determined that the facility or agency is meeting or exceeding the intent of a standard or regulation, the standard or regulation may be deemed to be met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:

§5357. Definitions

The following are definitions of terms used in these minimum standards:

Bureau Bureau of Licensing of the Louisiana Department of Social Services.

Child Care Center is defined as any place or facility operated by any institution, society, agency, corporation, person or persons, or any other group for the primary purpose of providing care, supervision, and guidance of seven or more children, not including those related to the caregiver, unaccompanied by parent or guardian, on a regular basis for at least twelve and one-half hours in a continuous seven-day week. Related or relative is defined as the natural or adopted child or grandchild of the caregiver or a child in the legal custody of the caregiver. A recognized religious organization which is qualified as a tax-exempt organization under Section 501(c) of the Internal Revenue Code and does not operate more than twenty-four hours in a continuous seven-day week is not considered a day care center.

Child Care Staff an individual directly involved in the care and supervision of the children in the center.

Class A License issued to centers that meet Class A minimum standards.

Class B License issued to centers that meet Class B minimum standards.

Committee on Private Child Care writes and oversees the implementation of the Class B minimum standards.

Corporal Punishment shall be defined as and limited to a spanking.

Department the Department of Social Services.

Director an individual employed by the owner of the center or by a board of a church or other organization to be responsible for the operation of the child care center.

Discipline Policy a policy that is to be made available to each parent/guardian and outlines the discipline (corporal or

noncorporal punishment) plan to be administered by the center.

Hereditary Relationship is defined as the natural or adopted child or grandchild of the caregiver or a child in the legal custody of the caregiver.

Incident Report is a record book that staff can record injuries in that a child may have arrived at school with. Each entry should be recorded, signed by the person making the report, and signed by a witness to the injury and report.

Master Card, Child's is an information form that gives identifying and pertinent information on each child.

Medication Permission Slip is an authorization form which gives the child care center parents' permission (and dosage instructions) regarding administering medication to their child.

Montessori School is a school that has a BESE Board Certification to be a Montessori School classification.

Owner is the individual or organization that owns the center, but who may employ a person to be a full-time director responsible for the operation of the center or who may retain the responsibility as director.

Personnel Health Record gives medical information of employees indicating a current check of communicable diseases.

Shall or Must is mandatory.

Spanking is a striking by the director's open hand on the clothed buttocks of a child older than 24 months of age as punishment.

Substitute Employee is an individual hired to take the place of any staff member.

Temporary Employee is an individual who, on an occasional basis, works under the supervision of a regular staff member.

Voluntary Worker is an individual who volunteers services or supplements the regular staff, on an occasional basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:

§5359. Procedures

A. Initial Application

1. Anyone applying for a license after the effective date of these standards shall meet all of the requirements herein.

2. Before beginning operation, it is mandatory to obtain licenses from the Department of Social Services, Bureau of Licensing. To do so, the following steps should be followed:

a. Prior to purchasing, leasing, etc. carefully check all local zoning and building ordinances in the area where you are planning to locate. Standards from the Office of Public Health, Sanitation Services; Office of the State Fire Marshal, Code enforcement and Building Safety; and City Fire Department (if applicable) should be obtained.

b. After securing a building, obtain an application form issued by:

Department of Social Services
Bureau of Licensing

P. O. Box 3078

Baton Rouge, La. 70821-3078

Phone: (225) 922-0015

Fax: (225) 922-0014

c. The completed application shall indicate Class "B" license. Anyone applying for State or Federal funding shall apply for a Class "A" license. Licensure fees are required to be paid by all centers. A Class "B" may not be changed to a Class "A" license if revocation procedures are pending. (However, child care facilities or agencies licensed as a Class "B" facility and owned or operated by a church or religious organization are exempt from annual license fees.)

d. After the center's location has been established, complete and return the application form. It is necessary to contact the following offices prior to building or renovating a center:

- i. Office of Public Health, Sanitation Services;
- ii. Office of the State Fire Marshal, Code Enforcement and Building Safety;
- iii. Office of City Fire Department (if applicable);
- iv. Zoning Department (if applicable);
- v. City or Parish Building Permit Office.

e. After the application has been received by the Bureau of Licensing, the Bureau will request the Office of State Marshal, Office of City Fire Department (if applicable), Office of Public Health and any known required local agencies to make an inspection of the location, as per their standards. However, it is the applicant's responsibility to obtain these inspections and approvals. A Licensing Specialist will visit the center to conduct a licensing survey.

f. A license will be issued on an initial application when the following items have been met and written verification is received by the Bureau of Licensing:

- i. fire approval (state and city, if applicable);
- ii. health approval;
- iii. zoning (if applicable);
- iv. full licensure fee paid (if applicable);
- v. three positive references on the Director;
- vi. licensure survey verifying substantial compliance.

3. When a center changes location, it is considered a new operation and a new application and fee for licensure shall be submitted. All items listed above shall be resubmitted, except references if the Director remains the same.

4. When a center changes ownership, a new application and fee shall be submitted. All approvals listed above shall be current. Documentation is required from the previous owner assuring change of ownership, i.e., letter from previous owner, copy of Bill of Sale or a lease agreement.

5. All new construction or renovation of a center requires approval from agencies listed above and the Bureau of Licensing.

6. The Bureau is authorized to determine the period during which the license shall be effective. A license is valid for the period for which it is issued unless it is revoked due to center's failure to maintain compliance with minimum standards.

7. A license is not transferable to another person or location.

8. If a Director or member of his immediate family has had a previous license revoked, refused, or denied, upon re-application, the applicant shall provide written evidence that the reason for such revocation, refusal or denial no longer exists. A licensing survey will then be conducted to verify that the reasons for revocation, refusal, or denial have been corrected and the Director and/or center is in substantial compliance with all minimum standards.

9. A license shall apply only to the location stated on the application and such license, once issued, shall not be transferable from one person to another or from one location to another. If the location or ownership of the facility is changed, the license shall be automatically revoked. A new application form shall be completed prior to all changes of ownership or location.

B. Fees

1. An initial application fee of \$25 shall be submitted with all initial applications, including all church owned and operated centers. This fee will be applied toward the total licensure fee, which is due prior to licensure of center. This fee is to be paid by all initial and change of location providers. The full licensure fee shall be paid on all Changes of Ownership. All fees shall be paid by certified check or money order only and are nonrefundable.

2. Annual licensure fees are required prior to issuance or renewal of the license. (However, child care facilities or agencies licensed as a Class "B" facility and owned or operated by a church or religious organization are exempt from license fees.) License fee schedules (based on capacity) are listed below:

License Fee Schedules	
Capacity	Fee
15 or fewer	\$25
16-50	\$100
51-100	\$175
101 or more	\$250

3. Other Licensure Fees:

a. Twenty-five dollar replacement fee for any center replacing a license when changes to the license are requested by the Director, i.e., changes in capacity, name change, age range change. (There is no processing charge when the request coincides with regular renewal of license.)

b. Five dollar processing fee for issuing a duplicate license with no changes.

C. Exemptions

1. The only exemption to licensure is private or public day schools serving children in grades one and above or pre-kindergartens and kindergartens. Also exempt are state certified Montessori schools and camps, as well as all care given without charge.

D. Licensing Changes

1. Bureau of Licensing shall be notified before changes are made which might have an effect upon the license (for example, a change in age range of children to be served or a change in space of facility).

E. Relicensing. The relicensing survey is similar to the original licensing survey.

1. Renewal applications will be mailed to centers approximately 60 days prior to the expiration for execution. The application shall indicate any changes the center needs to make (example: hours of operation, ages of children, etc.).

2. Relicensing surveys will be made by the Department of Social Services, Bureau of Licensing, Office of the State Fire Marshal, the Office of Public Health and others as the City Fire Marshal, Zoning (if applicable). Approvals of each must be received by the Department of Social Services, Bureau of Licensing before a new license will be issued. The director will review with the licensing specialist the findings and will be furnished a copy for any necessary action. It is the responsibility of the center owner/director to obtain the approvals before the current license's expiration date.

3. The Department of Social Services and the Office of the State Fire Marshal must approve any proposed structural changes, ratio adjustments, and variance of space used before changes are made which may affect the center's license.

F. Denial, Revocation or Nonrenewal of License

1. An application for a license may be denied, or a license may be revoked, or renewal thereof denied, for any of the following reasons:

a. violation of any provision of R.S. 46:1401 et seq. or failure to meet any of the minimum standards, rules, regulations or orders of the Department of Social Services promulgated thereunder;

b. cruelty or indifference to the welfare of the children;

c. conviction of a felony or any offense of a violent or sexual nature or an offense involving a juvenile victim, as shown by a certified copy of the record of the Court of conviction, of the applicant;

i. or, if the applicant is a firm or corporation, any of its board members or officers;

ii. or of the person designated to manage or supervise the center;

b. history of noncompliance;

c. disapproval from any agency whose approval is required for licensure;

d. nonpayment of licensure fee and/or failure to submit application for renewal prior to the expiration of the current license;

e. any validated instance of cruel, severe, or unusual punishment, physical or sexual abuse and/or neglect if the owner is responsible or if the employee who is responsible remains in the employment of the center;

f. the center is closed with no plans for reopening and no means of verifying compliance with minimum standards for licensure;

g. any proven act of fraud such as falsifying or altering document(s) required for licensure;

h. center refuses to allow the Bureau to perform mandated duties, i.e., denying entrance to the center, lack of cooperation for completion of duties, etc.

G. Appeal Procedure

1. If the license is denied, refused or revoked, the Bureau shall notify the day care center of the reasons for denial, refusal or revocation.

a. The day care operator may appeal this decision by submitting a written request including reasons to the Appeals Bureau, P.O. Box 2944, Baton Rouge, LA 70821-9118. This written request must be postmarked within 30 days of the operator's receipt of the above notification.

b. The Appeal's Bureau shall hold a hearing after receipt of such a request.

c. Within 90 days after the date the appeal is filed, the Appeal's Bureau shall advise the appellant by registered letter of the decision, either affirming or reversing the original decision. If the license is refused or revoked, the center shall immediately terminate operation.

H. Advertising

1. Any Class "B" facility which advertises the fact that it is licensed under Louisiana law shall clearly indicate in its advertising that it holds a Class "B" license. In printed materials, Class "B" shall be printed in the same size type as the words "licensed" or "license". In broadcast advertising, a facility shall not advertise the fact that it is licensed without indicating in the same advertisement that the kind of license held is a Class "B" license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:

§5361. General Requirements

A. The Director shall be responsible for ensuring that the minimum licensing requirements are met.

B. A current child day care license shall be on display, except for church affiliated centers (R.S. 46:1412.C) that choose to keep the license on file and available upon request.

C. A center shall maintain in force at all times current commercial liability insurance for the operation of a center and vehicle (if transportation is provided) to insure medical coverage for children in the event of accident or injury. Documentation shall consist of the insurance policy or current binder that includes the name of the insurance company, policy number, period of coverage and explanation of the coverage.

D. Current written report from the Office of State Fire Marshal.

E. Current written report from the Office of Public Health.

F. Current written report from City Fire (if applicable).

G. Certificate of Occupancy (zoning) (if applicable).

H. Incident log for staff to record any injuries that a child may have upon arrival to the child care center.

I. Each person living in a private residence, part of which is used as a child care facility, shall meet the same medical requirements as employed personnel.

J. Each child living in a private residence, part of which is a child care facility shall meet the same medical requirements as the children enrolled in the center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:

§5363. Transportation

A. A center that provides transportation of children assumes additional responsibility and liability for the safety of the children.

B. Transportation Plan

1. If transportation is provided, even on an irregular basis, the center shall have a written statement identifying the type of transportation provided, i.e., to and from home, to and from school, to and from swimming or dancing lessons, field trips, etc.

2. If transportation to/from home and/or school is provided the center shall have a written plan that states the following:

- a. geographical areas served;
- b. time schedule of the services; and
- c. fee, if any, for transportation services.

C. Transportation Furnished by the Center

1. When transportation is provided, the director shall insure that:

a. transportation arrangements conform to state laws;

NOTE: For additional information regarding state laws, contact the Office of Public Safety.

b. at least two staff, one of whom may be the driver, shall be in each vehicle unless the vehicle has a communication device and child/staff ratio is met in the vehicle;

c. at least one staff in each vehicle shall be currently certified in CPR;

d. children are under the direct supervision of staff at all times. The driver or attendant shall not leave the children unattended in the vehicle at any time while transporting children;

e. each child shall board the vehicle from the curbside of the street and/or shall be safely escorted across the street;

f. each child is delivered to a responsible person authorized in writing by the parent;

g. a designated staff person shall be present when the child is delivered to the center;

h. good order shall be maintained on the vehicle;

i. the driver shall check the vehicle at the completion of each trip to ensure that no child is left on the vehicle and all children were picked up and dropped off at the correct locations;

j. the vehicle shall be maintained in good repair; and

k. the use of tobacco in any form, use of alcohol and possession of illegal substances or unauthorized potentially toxic substances, firearms, pellet or BB guns (loaded or unloaded) in any vehicle while transporting children is prohibited.

2. Children shall not be transported in the back of a pickup truck.

3. All drivers and vehicles shall be covered by liability insurance as required by law.

4. The driver shall hold a valid appropriate Louisiana driver's license.

5. Each driver or attendant shall be provided with a current master transportation list including each child's name, pick up and drop off locations and authorized persons to whom child may be released.

6. The center shall maintain a daily transportation attendance record.

7. The vehicle shall have evidence of a current safety inspection.

8. There shall be first aid supplies in the vehicle, i.e. Band-Aids, peroxide, etc.

9. There shall be information in each vehicle identifying the center's name, telephone number and address for emergency situations.

10. A fire extinguisher shall be stored in the vehicle.

D. Field Trips

1. Whether transportation for field trips is provided by the center, parents, or an outside source, there shall be signed parental authorization for each child to leave the center and to be transported in the vehicle.

E. Transportation by Contract

1. When the center contracts with an outside source for transportation, there shall be an agreement on file signed and dated by the Director and a representative of the transportation agency stating that all rules for transportation shall be followed as stated in the law and the regulations. The center shall select a transportation agency with a good reputation and reliable drivers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 26:

§5365. Center Staff

A. All center staff includes the director, teachers, child care staff, and any other employees of the center such as the cook, housekeeper, and chauffeur.

B. All center staff must be at least 18 years of age or older. However, the center may employ a person 16 or 17 years old that works under the direct supervision of a qualified adult staff person.

C. Personnel Records

1. Employment Application. There shall be an employment application for each regularly employed and substitute member of the staff. This application shall include the actual date of hire, all pertinent personal information, past work experience, educational background.

2. References. Center staff shall be known in the community to be of good reputation as verified by at least three non-related reference checks. There shall be on file in the center three letters of reference or documentation that at least three reference were contacted by the director/provider prior to employment.

3. I-9 Form. A completed I-9 form (U.S. Immigration and Naturalization Service Employment Eligibility Form) required after November 1986.

4. Criminal Records Check. A criminal records check shall be requested by the director/provider prior to the employment of any staff person. Documentation of a criminal records check and fingerprinting application as required by R.S.15: 587.1 after September 1, 1987.

a. Criminal Record clearance is not transferable from one employer to another.

b. No felon shall be employed in a Class "B" facility, unless approved in writing by a district judge of the parish and the local district attorney. This statement shall be kept on file at all times by the child care facility and shall be produced upon request to any law enforcement officer.

5. Health Requirements

a. All center staff shall be required to obtain three months before or within 30 days after beginning work and at least every three years thereafter a written statement from a physician certifying that the individual is in good health and is physically able to care for the children, and is free from infectious and contagious diseases.

b. At the time of employment, the individual shall have no evidence of active tuberculosis. Tuberculin test result dated within one year prior to offer of employment is acceptable. Staff shall be retested on time schedule as mandated by the Office of Public Health. For additional requirements, refer to Chapter II of State Sanitary Code.

c. The director or any center staff shall not remain at work if he/she has any sign of a contagious disease.

d. Substitute workers, temporary employees, or volunteers shall meet the same medical requirements as regularly employed personnel. Refer to substitute and temporary employees as defined.

6. Job Descriptions. A personnel job description shall be kept on file detailing employee's responsibilities.

7. Personnel Records. Personnel records shall be kept on file for a minimum of one year after the employee leaves. Health records may be returned to the staff member upon request.

D. Personnel Training

1. The provider/director shall plan and implement procedures relating to new staff development. This shall include the following:

a. provisions for a one-day orientation to center policies and practices;

b. health and safety procedures; and

c. four days of supervised working with children;

d. documentation of orientation shall consist of a statement in the employee's record signed by the employee and director attesting to having received such orientation.

2. Providers/Directors shall conduct, at a minimum, one staff training session or meeting each quarter. The training session/meeting should include such matters as program planning, sharing new materials, and discussing center policy. Documentation of the training sessions/meetings including date and staff signatures shall be kept on file in the center.

3. Books, magazines, periodicals, pamphlets and journals relating to child care shall be available to staff. Documentation shall consist of observing that these materials are accessible in the facility to the staff.

4. CPR training for infant and child is required of one-half of the current staff on the premises. Documentation will be a copy of the certification card on file at the center.

a. This training may satisfy the requirement for a staff quarterly training session (§5365.D.2).

b. Certification will qualify for four "clock hour" training credit toward a new Director's requirements. (§5369.A.2.a-h)

5. If a center cares for children eight years and up, at least one staff shall be required to have Adult CPR when those children are present. Documentation will be a copy of the certification card on file at the center.

6. All staff shall have three continuing education hours annually through attendance at child care workshops or conferences i.e. LECA, LAPACC, NAEYC, etc., or local physician, dentist, public library, PBS, universities and extension services, etc. This is in addition to the three hours required for Health and Safety. These hours will be recognized by the Bureau without prior approval. The hours shall be documented and kept on file. This documentation shall include number of hours, topic, trainer, staff name, date and signature of the Director and/or the trainer.

7. All personnel are to be trained in emergency and evacuation procedures appropriate for the area in which the center is located. Documentation of training shall be kept on file at the child care center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:

§5367. Childrens' Records

A. The center shall have on file and available at all times the following records for each child in care:

1. master card. General information regarding child to include medical history;
2. immunization record;
3. written parental/guardian authorization for release of child to a third party; and
4. written parental/guardian authorization for the center to administer and/or secure emergency medical treatment.

B. For licensing purposes, children's records shall be kept on file a minimum of one year from the date of discharge from the center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:

§5369. Personnel

A. Director Qualifications

1. must be at least twenty-one (21) years of age;
2. must have documentation of at least one of the following:
 - a. bachelor's degree from a regionally accredited college or university with at least six credit hours of child development or early childhood education and one year of supervised child care experience in a licensed center or comparable setting;
 - b. a Child Development Associate Credential which includes practicum and one year experience in a licensed center;
 - c. an Associate of Arts degree in child development or a closely related area and one (1) year of supervised child care experience in a licensed center or a comparable setting;
 - d. one year of experience as a director or staff in a licensed child care center plus 12 credit hours in child care child development or early childhood education. Fifteen "clock hours" may be substituted for each three credit hours;
 - e. diploma from a vocational child care training program approved by the Board of Elementary and Secondary Education or equivalent plus one year of supervised child care experience in a licensed child care center or comparable setting;
 - f. a National Administrator Credential as awarded by the National Child Care Association, and one year experience in a licensed child care center, or comparable setting;
 - g. certificate of completion from the International Correspondence School and one year experience in a licensed child care center or comparable setting;

h. certificate of completion from the Professional Career Development Institute and one year of experience in a licensed child care center or comparable setting.

3. A comparable setting must be approved by the Bureau.

4. Licenses issued after June 20, 1990 must meet one of the requirements (5369.A.2.a-h). All directors employed prior to June 20, 1990 will be exempt from meeting director qualifications. These directors, however, are encouraged to work toward one of these requirements.

B. Required Center Staff

1. If the number of children exceeds 42 the director shall be a full-time administrator. When the director is not on the premises, there must be an individual designated as responsible for the operation of the center.

2. If the center does not exceed 42 children as their enrollment, there must be an individual designated as responsible for the operation of the center.

3. If the director is responsible for more than one center, there must be an individual designated as responsible for the operation of each center.

4. There shall be provisions for substitute help if the director or any regular employee is absent from the center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:

§5371. Required Child/Staff Ratios

A. Required Ratios for Ten or Less Children:

1. Below are the required child/staff ratios for centers serving ten or fewer children (including the operator's and/or staff's own children):

Children Staff	
10 (if no more than two children are under age two)	1
10 (if three or more children are under age two)	2

B. Required Ratios for Eleven or More Children:

Children Staff	
6 (Non-walkers and toddlers under 12 months)	1
8 (Toddlers, 12 months to 23 months)	1
12 (Two-Year-Olds, 24 months to 36 months)	1
14 (Three-Year-Olds, 36 months to 48 months)	1
16 (Four-Year-Olds, 48 months to five years old)	1
20 (five to six year olds)	1
25 School Age (six-year-olds and up)	1

1. Mixed Ages

a. When the center serves children of mixed ages, excluding children under two years, an average of the staff ratio may be applied.

2. Staff Involved in Ratio

a. Only those staff members directly involved in child care and supervision shall be considered in assessing child/staff ratio.

3. Other Required Staff

a. When the number of children in the center exceeds ten, there must be an individual immediately available in case of an emergency.

b. If day and night care is offered, there must be separate staff.

c. At naptime, appropriate staffing shall be present within the center to satisfy required child/staff ratio.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:

§5373. Physical Plant and Equipment

A. Indoor/Outdoor Space Required. The center shall be used exclusively by the children and center staff during operating hours. Area licensed for use as a child care center shall not be dually licensed.

1. Indoor Space

a. There shall be a minimum of indoor space of at least 35 square feet per child. The space shall not include toilet facilities, hallways, lofts, storage or food preparation areas, or offices. Any room counted as play space shall be available for play during play hours. If rooms are used exclusively for dining or sleeping, they cannot be included in the licensed capacity.

b. There shall be provisions for temporarily isolating a child having or suspected of having a communicable disease so he/she can be removed from the other children. Movable partitions are permissible so that the space may be used for play when not needed for isolating an ill child.

c. An area, i.e. bathroom, partitioned area, etc., shall be maintained for the purpose of providing privacy for diapering, dressing and other personal care procedures for children beyond the usual diapering age.

2. Outdoor Play Space

a. There shall be outdoor play space with direct exit from the center into the outdoor play yard.

b. The outdoor space shall provide a minimum of 75 square feet for each child in the outdoor play space at any one time. The minimum outdoor play space shall be available for at least one-half of the licensed capacity.

c. The outdoor play space shall be enclosed with a fence or other barrier in such a manner as to protect the children from traffic hazards, to prevent the children from leaving the premises without proper supervision, and to prevent contact with animals or unauthorized persons.

d. Crawlspace and mechanical, electrical, or other hazardous equipment shall be made inaccessible to children.

e. Areas where there are open cisterns, wells, ditches, fishponds and swimming pools or other bodies of water shall be made inaccessible to children by fencing.

3. A soft surface shall be provided under climbing apparatus with a potential fall of four feet or more to the ground. Soft surface examples are pea gravel, sand, wood chips, sawdust, or mats.

B. Furnishings and Equipment

1. There shall be a working telephone at the center.

2. Appropriate emergency numbers shall be posted, such as fire department, police department, and medical facility.

3. Play equipment of sufficient quantity and variety for indoor and outdoor use shall be provided which is appropriate to the needs of the children as follows:

a. equipment which encourages active physical play (for example, climbing apparatus, swings, wheel-toys); and

b. equipment which encourages quiet play or activity (for example, sand clay, crayons, paints, story and picture books, dolls, puzzles, and music).

4. The equipment shall be maintained in good repair.

5. The center shall make provisions for storage space within easy reach of the children for the storage of play materials in appropriate play areas. Toy chests with attached lids are prohibited.

6. There shall be individual spaces for each child's clothing and personal belongings.

7. Chairs of a suitable size and table space shall be available for each child two years or older.

8. Individual and appropriate sleeping arrangements must be provided for each child.

a. State and local health requirements regarding sleeping arrangements must be met.

b. Each child shall provide or be provided with a mat, cot or bed age appropriate. Playpens shall not be substituted for a baby bed/crib.

c. While in use, each mat, cot or bed shall be placed 18 inches apart and shall be arranged in a head to toe configuration. Each one shall be labeled for individual use.

9. Smoking shall not be allowed on the child care premises.

C. Fire Safety

1. Fire drills shall be conducted at least once per month. These shall be conducted at various times of the day and shall be documented as follows:

a. date and time of day;

b. number of children;

c. lapse time of drill;

d. problems and solutions if any; and

e. staff signatures.

D. Safety Regulations

1. Drugs, poisons, harmful chemicals, all products labeled "Keep out of the reach of children", equipment and tools shall be locked away from the children. Whether a cabinet or an entire room, the storage area must be locked.

2. Refrigerated medications shall be in a secure container to prevent access by children and avoid contamination of food.

3. Secure railings shall be provided for:

a. flights of more than three steps;

b. porches more than three feet from the ground.

4. Gates shall be provided at the head or foot of each flight of stairs to which children have access.

5. Accordion gates are prohibited.

6. First Aid Supplies shall be available at the day care center. (Suggestions for first aid supplies may be obtained from the Red Cross.)

7. The center and yard must be clean and free from hazards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:

§5375. Admission of Children

A. Admission of children shall include an interview with the parent or guardian to:

1. secure necessary information about the child; and
2. provide a Parents' Handbook about the center's programs, policies, fees and a basic daily center schedule.

B. Parents or guardians must be provided with a written description of the center's discipline policy.

C. Discrimination by child daycare centers on the basis of race, color, creed, sex, national origin, handicapping condition or ancestry is prohibited. A policy shall include this written statement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:

§5377. Care of Children

A. Nutrition

1. If the Center prepares any meals, well-balanced and nourishing meals shall be made available to children in care.

a. Children in care for more than four hours shall be provided meals using the four basic food groups (bread, fruits and vegetables, dairy products, protein products) that provide approximately one-third to one-half of the current Recommended Dietary Allowances of the National Research Council. (See Appendix A)

b. Additional servings of nutritious food over and above the required daily minimum shall be made available to children as needed if not contradicted by special diets.

c. To ensure well-balanced and nourishing meals, the specified patterns for meals (See Appendix A) shall be referenced.

2. Milk shall be served to the children at least once a day.

3. Children in full-time care shall have two snacks and one meal daily.

4. Weekly menus for meals and snacks shall be posted if the center prepares the food. Substitutions shall be posted on or near the menu.

5. It is permissible for children to bring their own food to the center.

6. Bottled formula for infants must be labeled.

7. If the parent provides the daily meal, parents should be encouraged to prepare meals which are well balanced and nutritious but with the understanding that what the parent provides is acceptable.

8. Infants are to be fed and supervised individually.

a. Infants shall be held while feeding.

b. A bottle shall not be propped at any time.

c. Parents shall supply the center with a schedule of feeding times for their infant.

9. Drinking water shall be readily available to the children in single service cups or cups that can be sanitized.

a. Drinking fountains are permissible.

b. Children shall be offered water at intervals at a minimum of two and one-half hours and after each outdoor activity.

10. Children's food shall be served on individual plates, napkins, paper towels or in cups as appropriate.

B. Health Service to the Child

1. No drugs of any type, including aspirin, shall be given by the center personnel unless authorized in writing by the parent. Authorization shall include the name of the child and medication, date(s) to be given, time to be given, dosage, and signature of parent.

2. Documentation shall be maintained verifying that medication was given according to parent's authorization, including the date, time and signature of the staff member who gave the medication.

3. All medication shall remain in the original container.

4. If symptoms of contagious or infectious diseases develop while the child is in care, he/she shall be in supervised isolation away from the other children until a parent or designated person has been contacted and the child has been picked up from the center.

5. Any child who has had a 100°F oral temperature or 101°F rectal temperature reading the last 12 hours is suspect.

6. Children with the following illnesses or symptoms shall be excluded from the center based on potential contiguousness (communicability) of the disease. Periods may be extended beyond this depending upon individual conditions.

Illness/Symptom	Exclude Until
Meningococcal disease (Neisseria meningitis)	Well with proof of noncarriage*.
Hib disease (hemophilus)	Well with proof of noncarriage*.
Diarrhea (two or more loose stools or over and above what is normal for that child).	Diarrhea resolved or is controlled (Contained in Diaper or toilet).
Fever of unknown origin (100°F oral or 101°F rectal or higher) some behavioral signs of illness.	Fever resolved or cleared by child's physician or Health department.
Chicken pox	Skin lesions (blisters) Scabbed over completely.
Hepatitis A	One week after illness started and fever gone.
Aids (or HIV infection)	Until child's health, neurologic development, behavior, and immune status is deemed appropriate (on a case-by-case basis) by qualified persons**, including the child's physician, chosen by the child's parent or guardian and the Director.
Undiagnosed generalized rash	Well or cleared by child's physician.
Any child with a sudden onset of vomiting, irritability, or excessive sleepiness.	Evaluated and cleared by child's physician.

* Proof of noncarriage. Either by completion of appropriate drug regimen of Rifampin or by a negative throat culture obtained after completion of treatment for meningitis.

** These persons include the child's physician and other qualified individuals such as the Director, a representative of the state's Office of Public health, and a child development specialist and should be able to evaluate whether the child will receive optimal care in the specific program being considered and whether HIV-infected child poses a potential threat to others.

7. With most other illnesses, children have either already exposed others before becoming obviously ill (i.e. colds), or are not contagious one day after beginning treatment (i.e., strep throat, conjunctivitis, impetigo, ringworm, parasites, head lice, and scabies.)

8. The parent or designated person shall be notified and incident documented if:

- a. child develops symptoms of illness; or
- b. suffers a serious accident in child care;
- c. all head injuries shall be reported to parents immediately.

9. An accident report including incidents shall be maintained detailing accident/incident of child and the action taken by the staff/director.

C. Daily Program

1. There shall be a schedule of the day's plan of activities posted in each classroom or center providing for flexibility and changes, as deemed necessary.

2. The program of activities shall be adhered to with reasonable closeness but shall accommodate and have due regard for individual differences among the children.

3. The program shall provide time and materials for both vigorous and quiet activity for the children to share or to be alone, indoor and outdoor play and rest. Regular time should be allowed for routines such as washing, lunch, rest, snack and putting away toys. Activity and quiet periods should be alternated so as to guard against over stimulation of the child.

4. Children shall have a rest period of at least one hour.

5. While awake, infants and toddlers shall not remain in a crib, a baby bed, or a playpen for more than 30 minutes continuously.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:

§5379. Care for Children During Nighttime Hours

A. The Minimum Standards for child care centers also apply to centers which provide care after 9:00 p.m. with the inclusion of the following standards as set forth in this section.

1. Any child care center caring for children at night must follow the same requirements for personnel standards as previously stated.

2. A minimum of one adult shall be present at all times during nighttime care.

3. In addition, the following standards shall apply;

a. The adult in charge must remain awake all night and directly supervise the children at all times.

b. Meals must be served to children who are in the center at the ordinary meal times;

c. Each child shall have separate sleeping accommodations. These accommodations shall include age appropriate crib, cot with a mat or mattress or bed.

d. Evening quiet time such as story time, games, and reading shall be provided to each child arriving before bedtime.

e. No physical restraints shall be used to confine children to bed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:

§5381. Discipline

A. Each center shall establish a written policy in regard to methods of discipline stating what methods of discipline will and will not occur. This statement must be made available to parents/guardians and licensing personnel.

B. If corporal punishment is used, the following guidelines are applicable and shall be included in the written discipline policy.

1. Permission for corporal punishment must be in writing from the parents. Documentation of details of the incident/infracton and punishment administered is required. A copy of the documentation must be kept on file at the child care center and a copy given to the parents.

2. Parents must be notified by phone before corporal punishment is administered. Documentation of the phone contact must be kept on file.

3. Written permission for corporal punishment of a child shall not be a preadmission requirement for children to be enrolled in a child care program.

4. Corporal punishment will not be used on children 24 months and younger.

5. Any implement other than the open hand shall not be considered as corporal punishment but mistreatment of the child.

6. Corporal punishment shall only be administered by the Director in the form of and not more than three spanks of the open hand on the clothed buttocks of a child older than 24 months of age. A second adult must be present during the administration of the spanking and the spanking must be documented and signed by both adults present.

7. Cruel, severe, unusual, or unnecessary punishment shall not be inflicted on children.

D. Derogatory remarks shall not be made in the presence of the children about family members of the children in care or about the children themselves.

E. No child or group of children shall be allowed to discipline another child.

F. When a child is removed from the group for disciplinary reasons, he shall never be out of sight of a staff member.

G. No child shall be deprived of meals or any part of meals for disciplinary reasons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:

§5383. Abuse and Neglect

A. Any suspected abuse and/or neglect of a child in a child care center must be reported in accordance with Louisiana Revised Statutes 14:403. This statement shall be visibly posted in the center with the local child protection phone number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:

§5385. Supervision

A. Children shall be supervised at all times. All children shall never be left alone in any room or outdoors at any time without a staff present.

B. While on duty with a group of children, child care staff members shall devote their entire time:

1. in supervision of the children; and
2. in participating with them in their activities.

C. Individuals who do not serve a purpose related to the care of children and/or hinder supervision of the children shall not be present in the center.

D. At naptime, children may be grouped together with one worker supervising the children sleeping while other workers rotate various duties and lunchtime. All children sleeping must be in the sight of the naptime worker. However, appropriate staffing must be present within the center to satisfy state required child/staff ratios.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:

Family Impact Statement

In accordance with Section 972 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted the family impact statement regarding the rule proposed for adoption, repeal or amendment.

1. What effect will this rule have on the stability of the family? This proposed rule to amend the minimum standards for licensure of Class "B" child day care center will have no affect on the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed rule could result in staff duties pertaining to the supervision and care of children in Class "B" day care centers becoming more clearly defined and documented.

3. What effect will this have on the functioning of the family? This rule is not anticipated to have any affect on the functioning of the family.

4. What effect will this have on family earnings and family budget? There will be no affect on family earnings and family budget.

5. What effect will this have on the behavior and personal responsibility of children? This proposed rule could potentially result in an improvement in the behavior and personal responsibility of children in care in Class "B" day care centers because of more efficient operations of those day care centers.

6. Is the family or local government able to perform the function as contained in this proposed rule? The family or

local government is not able to perform the function contained in this proposed rule.

Public hearings on the proposed rule will be held on Monday, March 27, 2000 at 10:00-11:00 a.m. at Department of Transportation and Development, 1st Floor Auditorium, 1201 Capitol Access Road, Baton Rouge, LA; Tuesday, March 28, 2000 at 10:00-11:00 a.m. at Delgado Community College, Building #7, Multimedia Room, 615 City Park Avenue, New Orleans, LA; and Thursday, March 30, 2000 at 10:00-11:00 a.m. at State Office Building, Room 453, 122 St. John Street, Monroe, LA.

Interested persons may request copies as well as submit written comments on this proposed rule to Angie Badeaux Rollins, Office of the Secretary, Bureau of Licensing, P.O. Box 3078, Baton Rouge, LA 70821-3078.

All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

J. Renea Austin-Duffin
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Class "B" Child Day Care**

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

Implementation costs of this proposed rule that will be incurred by state government will be for the printing and mailing of new licensing standards for Class "B" child day care centers. The projected cost for printing 600 copies of the standards is estimated to be \$720. Postage costs for mailing this material to Class "B" day care center operators will be approximately \$882. Total implementation costs for printing and postage will be \$1602.

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

This rule will have no effect on revenue collection of state or local governmental units.

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

There are no costs or economic benefits anticipated to any persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no impact anticipated on competition or employment.

J. Renea Austin-Duffin
Secretary
0002#117

H. Gordon Monk
Staff Director
Legislative Fiscal Office