

Emergency Rules

DECLARATION OF EMERGENCY

Department of Economic Development Office of the Secretary

Capital Companies Tax Credit Program (LAC 10:XV.Chapter 3)

The Department of Economic Development, Office of the Secretary, pursuant to the emergency provision of the Administrative Procedure Act, R.S. 49:9536(B), adopts the following amendment to the rules of the Capital Companies Tax Credit Program as authorized by R.S. 51:1935. This Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., shall become effective December 17, 2000 and shall remain in effect for the maximum period allowed under the Act or until adoption of the Rule, whichever occurs first.

The Department of Economic Development, Office of the Secretary has found an immediate need to provide financial assistance to certified Louisiana capital companies whose primary investment objectives include investing in certified disadvantaged businesses or business ventures operating in economically distressed areas. Although the law provided for establishment of the investment funds discussed herein no funding has been made in over two years. Without these Emergency Rules the public welfare may be harmed as a result of the failure to provide funding to certified Louisiana capital companies whose primary investment objectives include investing in certified disadvantaged businesses or business ventures operating in economically distressed areas, which have resulted disruption resulting in the loss of industry and jobs in the disadvantaged communities of this state.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES, AND UCC

Part XV. Other Regulated Entities

Chapter 3. Capital Companies Tax Credit Program

§320. Investment In Approved Funds

A. Any certified Louisiana capital company that has capital certified pursuant to R.S. 51:1931 for the calendar year 1999 or any year thereafter, and which qualifies for credits pursuant to R.S. 22:1068(E) shall invest an amount, as determined by the secretary, into the following investments:

1. fifty percent of the amount determined by the secretary shall be invested in one or more capital management funds as approved by the secretary whose primary investment objectives include pre-seed, seed, and early stage business ventures, and whose investment in any such business and its affiliates is limited to one million dollars or less. Investments made by such funds must give special emphasis to the Targeted Technology Clusters identified in Vision 2020 Master Plan For Economic

Development as adopted by the Louisiana Economic Development Council; and

2. fifty percent of the amount determined by the secretary shall be invested equally in any certified Louisiana capital company whose primary investment objectives include investing in the following three categories:

- a. certified disadvantaged businesses;
- b. business ventures operating in economically distressed areas; or
- c. Louisiana businesses and affiliates in an amount not exceeding one million dollars.

B. The amount to be invested by each certified Louisiana capital company pursuant to Subsection A shall be determined annually by the secretary beginning January 1, 2000. Such amount shall not exceed 10 percent of all capital certified in the previous calendar year that are eligible for credits pursuant to R.S. 22:1068(E). The amount to be invested pursuant to Subsection A shall be invested within 120 days from the end of the calendar year in which the capital is certified or 120 days from the date the secretary determines the amount to be invested, whichever is later.

C. The capital management fund referred to in Subsection A.1 shall be managed by a qualified individual and governed by a board consisting of one representative from each certified Louisiana capital company. The governing board of the capital management fund will develop policies for the administration and operation of the capital management fund.

D. Any entities receiving funds pursuant to subsection A.1 or A.2 shall comply with all requirements of R.S. 51:1921, et seq. (Chapter 26 of Title 51 of the Louisiana Revised Statutes) and with this Chapter with respect to such funds received as if those funds were certified capital as defined in R.S. 51:1923(1) with the exception that:

1. such funds shall earn no additional tax credits; and
2. for purposes of R.S. 51:1926(A)(1), 50 percent must be invested in qualified investments and for purposes of R.S. 51:1926(A)(2), 80 percent must be invested in qualified investments.

E. Amounts invested pursuant to subsection A.2 shall be invested directly into a certified Louisiana capital company. Investments directly into a business shall not qualify as an investment pursuant to Subsection A.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1935.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 27:

Don J. Hutchinson
Secretary

0012#058

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students (TOPS)
High School Grade Point Average Calculation
(LAC 28:IV.301, 509, 903)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend rules of the Tuition Opportunity Program for Students (TOPS) (R.S. 17:3042.1 and R.S. 17:3048.1).

The Emergency Rules are necessary to implement changes to the TOPS rules to allow the Louisiana Office of Student Financial Assistance and state educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. The commission has, therefore, determined that these Emergency Rules are necessary in order to prevent imminent financial peril to the welfare of the affected students.

This declaration of emergency is effective November 9, 2000, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28 EDUCATION

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

Chapter 3. Definitions

§301. Definitions

* * *

ACT Score the highest composite score achieved by the student on the official ACT test (including National, International, Military or Special test types) or an equivalent score, as determined by the comparison tables used by LASFAC, on an equivalent Scholastic Aptitude Test (SAT). ACT or SAT test scores which are unofficial, including so-called "residual" test scores, are not acceptable for purposes of determining program eligibility.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458, 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (July 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 27:

Chapter 5. Application; Application Deadlines and Proof of Compliance

§509. American College Test (ACT) Testing Deadline

A. The student must take the official ACT Test (including National, International, Military or Special test types) on or before the official April test date in the Academic Year (High School) in which the student graduates.

B. ...

C. Final ACT Testing Deadline for Reduced Awards

1. Beginning with awards made for the 2000-2001 academic year and thereafter, if an applicant does not achieve a qualifying score on the ACT or on the Scholastic Aptitude Test for the TOPS Opportunity Award by the April national ACT test date in the year of the applicant's high school graduation, then the applicant's first qualifying score for any TOPS Award obtained on an authorized testing date after the April national ACT test date in the year of the applicant's high school graduation but prior to July 1 of the year of such graduation will be accepted. However, when granting an award to an applicant whose qualifying test score is obtained on an authorized testing date after the date of the applicant's high school graduation but prior to July 1 of the year of such graduation, the applicant's period of eligibility for the award shall be reduced by one semester, two quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters. Except for an applicant who has qualified for a TOPS-Tech Award on or prior to the April national ACT test date, an applicant will not be allowed to use a test score obtained after the April national ACT test date to upgrade a TOPS Award.

C.2. - D. ...

E. Students who graduated during the 1998-1999 school year who are otherwise qualified for a TOPS award and who obtained a qualifying score on the ACT Test or the Scholastic Aptitude Test on an authorized testing date after the date of the student's graduation but prior to July 1, 1999 shall be considered to have met the requirements of section 509 A and B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 26:1995 (September 2000), amended LR 27:

Chapter 9. TOPS Teacher Award

§903. Establishing Eligibility

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

ii. at the time of high school graduation, have attained a composite score on the ACT Test or the Scholastic Aptitude Test (SAT) which is, or is equivalent to, at least a 23 on the 1990 version of the ACT; and

A.4.a.iii - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:637 (April 1998), amended LR 24:1906 (October 1998), LR 26:68 (January 2000), LR 26:2269 (October 2000), LR 27:

Mark S. Riley
Assistant Executive Director

0012#60

DECLARATION OF EMERGENCY

Office of the Governor Board of Trustees of the State Employees Group Benefits Program

EPO Plan of Benefits Eligibility (LAC 32:V.Chapters 1 - 7)

Pursuant to the authority granted by R.S. 42:871(C) and 874(B)(2), vesting the Board of Trustees with the

responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees, through its Chief Executive Officer, hereby invokes the Emergency Rule provisions of R.S. 49:953(B).

The Board finds that it is necessary to revise and amend provisions of the EPO Plan Document, including increasing the calendar year deductible for employees, imposing a calendar year deductible for prescription drugs, increasing the deductible applicable to emergency room services, imposing a pre-existing condition limitation on new employees and their dependents, eliminating benefits for glucometers, and providing for limited availability of a 90-day supply of maintenance drugs.

Failure to adopt this rule on an emergency basis will adversely affect fiscal solvency of the State Employees Group Benefits Program and impact the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, the following Emergency Rule, revising and amending the EPO Plan of Benefits, is effective January 1, 2001 and shall remain in effect for a maximum of 120 days, or until the final rule is promulgated, whichever occurs first.

Title 32

EMPLOYEE BENEFITS

Part V. Exclusive Provider (EPO) Plan of Benefits

Chapter 1. Eligibility

§101. Persons to be Covered

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

A. Employee Coverage

1. - 2. ...

3. Effective dates of coverage, New Employee, Transferring Employee Coverage for each Employee who completes the applicable Enrollment Form and agrees to make the required payroll contributions to his Participant Employer is to be effective as follows:

a. - b. ...

c. Employee Coverage will not become effective unless the Employee completes an Enrollment Form within 30 days following the date of employment. An Employee who completes an Enrollment Form after 30 days following the date of employment will be considered an overdue applicant.

d. An Employee that transfers employment to another Participating Employer must complete a Transfer Form within 30 days following the date of transfer in order to maintain coverage without interruption. An Employee who completes a Transfer Form after 30 days following the date of transfer will be considered an overdue applicant.

4. - 7. ...

8. Pre-Existing Condition (PEC). New Employees (on and after January 1, 2001)

a. The terms of the following paragraphs apply to all eligible Employees whose employment with a Participant Employer commences on or after January 1, 2001, and to the Dependents of such Employees.

b. The Program may require that such applicants complete a "Statement of Physical Condition" and an "Acknowledgement of Pre-existing Condition" form.

c. Medical expenses incurred during the first 12 months that coverage for the Employee and/or Dependent is in force under the Plan will not be considered as covered medical expenses if they are in connection with a disease, illness, accident or injury for which medical advice, diagnosis, care, or Treatment was recommended or received during the 6-month period immediately prior to the effective date of coverage. The provisions of this section do not apply to pregnancy.

d. If the Covered Person was previously covered under a Group Health Plan, Medicare, Medicaid or other creditable coverage as defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), credit will be given for previous coverage that occurred without a break of 63 days or more for the duration of prior coverage against the initial 12-month period. Any coverage occurring prior to a break in coverage 63 days or more will not be credited against a pre-existing condition exclusion period.

B. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1804 (October 1999), LR 27:

§103. Continued Coverage

A. - B. ...

C. Surviving Dependents/Spouse. The provisions of this section are applicable to surviving Dependents who elect to continue coverage following the death of an Employee or Retiree. On or after July 1, 1999, eligibility ceases for a Covered Person who becomes eligible for coverage in a Group Health Plan other than Medicare. Coverage under the Group Health Plan may be subject to HIPAA.

1. Benefits under the Plan for covered Dependents of a deceased covered Employee or Retiree will terminate on the last day of the month in which the Employee's or Retiree's death occurred unless the surviving covered Dependents elect to continue coverage.

a. ...

b. The surviving unmarried (never married) Children of an Employee or Retiree may continue coverage until they are eligible for coverage under a Group Health Plan other than Medicare, or until attainment of the termination age for Children, whichever occurs first;

C.I.c. - D. ...

E. Family and Medical Leave Act (F.M.L.A.) Leave of Absence. An employee on approved F.M.L.A. leave may retain coverage for the duration of such leave. The participant employer shall pay the employer's share of the premium during F.M.L.A. leave, whether paid leave or leave without pay. The participant employer shall pay the employee's share of the premium during unpaid F.M.L.A. leave, subject to reimbursement by the employee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1806 (October 1999), LR 27:

§107. Change of Classification

A. Adding or Deleting Dependents. The Plan Member must notify the Program whenever a Dependent is added to, or deleted from, the Plan Member's coverage that would

result in a change in the class of coverage. Notice must be provided within 30 days of the addition or deletion.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1809 (October 1999), LR 27:

Chapter 3. Medical Benefits

§301. Medical Benefits apply when eligible expenses are incurred by a Covered Person.

A. Eligible expenses are the charges incurred for the following items of service and supply. These charges are subject to the applicable deductibles, limits of the Fee Schedule, Schedule of Benefits, exclusions and other provisions of the Plan. A charge is incurred on the date that the service or supply is performed or furnished. Eligible expenses are:

1. - 8. ...

9. services of licensed speech therapist when prescribed by a physician and pre-approved through Outpatient Procedure Certification for the purpose of restoring partial or complete loss of speech resulting from stroke, surgery, cancer, radiation laryngitis, cerebral palsy, accidental injuries or other similar structural or neurological disease;

10. - 11.c. ...

d. accidental injury means a condition occurring as a direct result of a traumatic bodily injury sustained solely through accidental means from an external force. With respect to injuries to teeth, the act of chewing does not constitute an injury caused by external force;

12. durable medical equipment, subject to the lifetime maximum payment limitation as listed in the Schedule of Benefits;

[The Program will require written certification by the treating physician to substantiate the medical necessity for the equipment and the length of time that it will be used. The purchase of Durable Medical Equipment will be considered an eligible expense only upon showing that the rental cost would exceed the purchase price. Under no circumstances may the eligible expense for an item of Durable Medical Equipment exceed the purchase price of such item.]

13. - 18. ...

19. acupuncture when rendered by a medical doctor licensed in the state in which the services are rendered;

20. ...

21. services of a Physical Therapist and Occupational Therapist licensed by the state in which the services are rendered when:

a. - e. ...

f. approved through case management when rendered in the home;

23. ...

24. not subject to the annual deductible:

a. ...

b. mammographic examinations performed according to the following schedule:

i. one mammogram during the five-year period a person is 35-39 years of age;

24.b.ii. - 26. ...

27. services rendered by the following, when billed by the supervising physician:

a. Perfusionists and Registered Nurse Assistants assisting in the operating room;

b. Physician's Assistants and Registered Nurse Practitioners;

28. - 32. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1810 (October 1999), LR 27:

§307. Utilization ReviewC pre-admission Certification, Continued Stay Review

A. ...

B. For a routine vaginal delivery, PAC is not required for a stay of two days or less. If the mother's stay exceeds or is expected to exceed two days, PAC is required within 24 hours after the delivery or the date on which any complications arose, whichever is applicable. If the baby's stay exceeds that of the mother, PAC is required within 72 hours of the mother's discharge and a separate pre-certification number must be obtained for the baby. In the case of a Caesarean Section, PAC is required if the mother's stay exceeds or is expected to exceed two days.

C. No benefits will be paid under the Plan:

1. ...

2. unless PAC is requested within two business days following admission in the case of an emergency;

3. - 4. ...

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1812 (October 1999), LR 27:

§309. Outpatient Procedure Certification

A. ...

B. OPC is required on the following procedures:

1. - 6. ...

7. speech therapy;

C. No benefits will be paid for the facility fee in connection with outpatient procedures, or the facility and professional fee in connection with speech therapy:

C.1 - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1812 (October 1999), LR 27:

§311. Case Management

A. - E.8. ...

9. physical and occupational therapy rendered in a home setting.

F. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1812 (October 1999), LR 27:

§313. Dental Surgical Benefits

A. ...

B. Eligible expenses incurred in connection with the removal of impacted teeth, including pre-operative and post-operative care, anesthesia, radiology, and pathology services,

and facility charges are subject to the deductible, co-insurance and the maximum benefit provisions of the Plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1813 (October 1999), LR 27:

§315. Medicare Reduction

A. ...

B. Retiree 100-Medicare COB. Upon enrollment and payment of the additional monthly premium, a Plan Member and Dependents who are covered under Medicare, both Parts A and B, may choose to have full coordination of benefits with Medicare. Enrollment must be made within 30 days of eligibility for Medicare or within 30 days of retirement if already eligible for Medicare and at the annual open enrollment.

§317. Exceptions and Exclusions for All Medical Benefits

A. No benefits are provided under this Plan for:

1. - 24. ...

25. Blank

26. - 40. ...

41. Glucometers

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1813 (October 1999), LR 26:488 (March 2000), LR 27:

§325. Prescription Drug Benefits

A. This Plan allows benefits for drugs and medicines approved by the Food and Drug Administration or its successor, requiring a prescription, and dispensed by a licensed pharmacist or pharmaceutical company, but which are not administered to a Covered Person as an inpatient Hospital patient or an outpatient Hospital patient, including insulin, Retin-A dispensed for Covered Persons under the age of 26, Vitamin B12 injections, prescription Potassium Chloride, and over-the-counter diabetic supplies including, but not limited to, strips, lancets and swabs.

B. The following drugs, medicines, and related services are not covered:

1. - 10. ...

11. drugs for treatment of impotence, except following surgical removal of the prostate gland; and

12. glucometers.

C. ...

1. Upon presentation of the Group Benefits Program Health Benefits Identification Card at a network pharmacy, and after satisfying the Prescription Drug Deductible set forth in the Schedule of Benefits, the Plan Member will be responsible for copayment of \$6 per prescription when a generic drug is dispensed, \$20 per prescription when a preferred brand name drug is dispensed, and \$30 per prescription when a non-preferred brand name drug is dispensed. The copayment cannot exceed the actual charge by the pharmacy for the drug.

2. - 4. ...

5. Prescription drug dispensing and refills will be limited in accordance with protocols established by the prescription benefits manager, including the following limitations:

a. up to a 34-day supply of acute drugs may be dispensed at one time;

b. up to a 90-day supply of maintenance drugs may be dispensed at one time only at pharmacies identified as participating in the 90-day Maintenance Drug Plan administered by the prescription benefits manager; up to a 34-day supply of maintenance drugs may be dispensed at one time at any other network pharmacy; and

c. refills will be available only after 75 percent of drugs previously dispensed should have been consumed.

6. *Acute or Non-maintenance Drug* covered drug other than a maintenance drug as define herein.

7. *Brand Drug* the trademark name of a drug approved by the U. S. Food and Drug Administration.

8. *Generic Drug* chemically equivalent copy of a "brand name" drug.

9. *Maintenance Drug* covered drug that is determined by the Program's contracted prescription benefits management firm, using standard industry reference materials, to be routinely taken over a long period of time for certain chronic medical conditions. The drug must be listed on the established maintenance drug list as an approved drug for the patient's condition

10. *Non-Preferred Brand Drug* brand drug for which there is an equally effective, less costly therapeutic alternative available, as determined by the Pharmacy and Therapeutic Committee.

11. *Pharmacy and Therapeutic Committee* committee created by the Program's contracted prescription benefits management firm to advise its various plans on whether a drug has been accepted as safe and effective or investigations as well as whether a drug will be classified as a Preferred Brand Drug or a Non-Preferred Brand Drug. In making these determinations, the Pharmacy and Therapeutic Committee relies on the United States Food and Drug Administration as well as peer reviewed medical journals.

12. *Preferred Brand Drug* brand name drug that has received a classification of Preferred Brand from the Pharmacy and Therapeutic Committee based on the following criteria:

a. clinical uniqueness of the medication;

b. positive efficacy profile;

c. good side effect, safety, and drug interaction profile;

d. positive quality of the implications;

e. clinical experience with the medication; and

f. cost (only considered when clinical parameters are equal to other products in its class).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1815 (October 1999), LR 27:

Chapter 4. Uniform Provisions

§403. Properly Submitted Claim Form

A. For Plan reimbursements, all bills must show:

1. employee's name;

2. name of patient;

3. name, address, and telephone number of the provider of care;

4. diagnosis;

5. type of services rendered, with diagnosis and/or procedure codes;

6. date of service;
7. charges;
8. employee's member number;
9. provider Tax Identification number; and
10. medicare explanation of benefits, if applicable.

B. The Program can require additional documentation in order to determine the extent of coverage or the appropriate reimbursement. Failure to furnish the requested information within 90 days of the request will constitute reason for the denial of benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1816 (October 1999), LR 27:

Chapter 5. Claims Review and Appeal

§501. Claims Review Procedures and Appeals

A. ...

B. The request for review must be directed to Attention: Appeals and Grievances within 90 days after the date of the notification of denial of benefits, denial of eligibility, or denial after review by the utilization review, pharmacy benefit or mental health contractors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1818 (October 1999), LR 27:

§511. Subpoena of Witnesses; Production of Documents

A. - B. ...

C. No subpoena will be issued requiring the attendance and giving of testimony by witnesses unless a written request therefore is received in the office of the Program, Attention: Appeals and Grievances no later than 15 calendar days before the date fixed for the hearing. The request for subpoenas must contain the names of the witnesses and a statement of what is intended to be proved by each witness. No subpoenas will be issued until the party requesting the subpoena deposits with the Program a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled.

D. No subpoena for the production of books, papers and other documentary evidence will be issued unless written request therefore is received in the office of the Program, Attention: Appeals and Grievances no later than 15 calendar days before the date fixed for the hearing. The request for subpoena for books, papers, and other documentary evidence must contain a description of the items to be produced in sufficient detail for identification and must contain the name and street address of the person who is to be required to produce the items and a brief statement of what is intended to be proved by each item.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1819 (October 1999), LR 27:

§513. Appeals Decisions

A. ...

B. Appeals Heard by Referee: At the conclusion of the hearing, the Referee will take the matter under submission and, as soon as is reasonably possible thereafter, prepare a recommended decision in the case which will be based on

the evidence adduced at the hearing or otherwise included in the hearing records. The decision will contain findings of fact and statement of reasons. The recommended decision will be submitted to the Committee for review.

C. The Committee may adopt or reject the recommended decision. In the case of adoption, the Referee's decision becomes the decision of the Committee. In the case of rejection, the Committee will render its decision, which will include a statement of reasons for disagreement with the Referee's decision. The decision of the Committee will be final. A copy will be mailed by certified mail to the Covered Person and any Representative thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1819 (October 1999), LR 27:

§515. Rehearing

A. - B. ...

C. The request for rehearing must be filed with the Program, Attention: Appeals and Grievances on or before 30 calendar days after the mailing of the appeal decision of the Committee. The request will be deemed filed on the date it is received in the office of the Program.

D. ...

E. When the Committee grants a rehearing, an order will be issued setting forth the grounds. A copy of the order will be sent, along with notice of the time and place fixed for the rehearing, to the Appealing Party and any Representative by certified mail.

F. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1819 (October 1999), LR 27:

Chapter 6. Definitions

§601. Definitions

*Accidental Injury*Ca condition occurring as a direct result of a traumatic bodily injury sustained solely through accidental means from and external force. With respect to injuries to teeth, the act of chewing does not constitute an injury caused by external force.

*Acute or Non-maintenance Drug*Ca covered drug other than a maintenance drug as define herein.

*Brand Drug*Ca the trademark name of a drug approved by the U. S. Food and Drug Administration.

*Children*Ca

1. any legitimate, duly acknowledged, or legally adopted Children of the Employee and/or the Employee's legal spouse dependent upon the Employee for support;

2. - 4. ...

*Generic Drug*Ca chemically equivalent copy of a "brand name" drug.

*Maintenance Drug*Ca covered drug that is determined by the Program's contracted prescription benefits management firm, using standard industry reference materials, to be routinely taken over a long period of time for certain chronic medical conditions. The drug must be listed on the

established maintenance drug list as an approved drug for the patient's condition.

* * *

Non-Preferred Brand Drug Ca brand drug for which there is an equally effective, less costly therapeutic alternative available, as determined by the Pharmacy and Therapeutic Committee.

* * *

Pharmacy and Therapeutic Committee Ca committee created by the Program's contracted prescription benefits management firm to advise its various plans on whether a drug has been accepted as safe and effective or investigations as well as whether a drug will be classified as a Preferred Brand Drug or a Non-Preferred Brand Drug. In making these determinations, the Pharmacy and Therapeutic Committee relies on the United States Food and Drug Administration as well as peer reviewed medical journals.

* * *

Preferred Brand Drug Ca brand name drug that has received a classification of Preferred Brand from the Pharmacy and Therapeutic Committee based on the following criteria:

1. clinical uniqueness of the medication;
2. positive efficacy profile;
3. good side effect, safety, and drug interaction profile;
4. positive quality of the implications;
5. clinical experience with the medication; and
6. cost (only considered when clinical parameters are equal to other products in its class).

* * *

Well-Baby Care Croutine care to a well newborn infant from the date of birth until age 1. This includes routine physical examinations, active immunizations, check-ups, and office visits to a physician and billed by that physician, except for the Treatment and/or diagnosis of a specific illness. All other health services coded with wellness procedures and diagnosis codes are excluded.

Well-Child Care Croutine physical examinations, active immunizations, check-ups and office visits to a Physician, and billed by a health care provider that has entered into a contract with the State Employees Benefits Program, except for the Treatment and/or diagnosis of a specific illness, from age 1 to age 16. All other health services coded with wellness procedures and diagnosis codes are excluded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1820 (October 1999), LR 27:

Chapter 7 - Schedule of Benefits - EPO

§701 Comprehensive Medical Benefits

A. ...

1. Deductibles

	PPO/non participating provider	EPO
Inpatient deductible per day, maximum of 5 days per Admission (waived for admissions at PPO hospitals)	\$50	0
Emergency room charges for each visit unless The Covered person is hospitalized	\$150	0

immediately Following emergency room treatment (prior to And in addition to Calendar Year deductible)

Professional and other eligible expenses, Employees and Dependents of Employees, Per person, per Calendar Year	\$500	-0-
Professional and other eligible expenses, Retirees and Dependents of Retirees, Per person, per Calendar Year	\$300	-0-
Family Unit maximum (3 individual deductibles)		
Prescription Drugs, Per person, per Calendar Year (separate from and in addition to all other deductibles)	\$150	\$150

2 - 3. ...

4. Prescription Drugs

After Deductible (\$150 Per person, per Calendar Year)	50% non-Network in state
\$6 copayment for generic drugs, \$20 copayment for preferred brand name drugs, and \$30 copayment for non-preferred brand name drugs purchased at a network pharmacy	80% non-Network out of state

B. - E. ...

F. Physical /Occupational Therapy¹

See % payable after deductible - Pg. 4	\$15 copay for outpatient services
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Speech Therapy²

See % payable after deductible - Pg. 4	\$15 copay for outpatient services
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G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1823 (October 1999), LR 26:488 (March 2000), LR 27:

¹ ...

² Subject to Case Management Guideline if rendered in a home setting

³ Subject to Outpatient Procedure Certification Guidelines

A. Kip Wall

Interim Chief Executive Officer

0012#042

DECLARATION OF EMERGENCY

**Office of the Governor
Board of Trustees of the
State Employees Group Benefits Program**

New Participating Groups Risk Rated Premiums

Pursuant to the authority granted by R.S. 42:871(C) and 874(B)(2), vesting the Board of Trustees with the responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, and in accordance with, the Board of Trustees, through its Chief Executive

Officer, hereby invokes the Emergency Rule provisions of R. S. 49:953(B).

This action is necessary in order to implement the provisions of R.S. 42:851(A)(5)(b)(iii), as amended by Act 41 of the First Extraordinary Session of 2000. Failure to adopt this rule on an emergency basis may result in adverse financial impact that will affect the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, the following Emergency Rule is effective January 1, 2001, and shall remain in effect for a maximum of 120 days or until promulgation of the final Rule, whichever occurs first:

If a state department or agency, school board, or political subdivision or other public entity elects to participate in health and accident benefits through the State Employees Group Benefits Program after participation in another group health and accident insurance program, the premium rate applicable to the employees and former employees of such group intended to be covered by the program shall be the greater of the premium rate based on the loss experience of the group under the prior plan or the premium rate based on the loss experience of the classification into which the group is entering.

In the event that the initial premium is based on the loss experience of the group under the prior plan, such premium shall remain in effect for a minimum of one year. The loss experience of the group shall be reviewed at the end of the first year, and annually thereafter. For the second and each subsequent year, the premium rate applicable to such employees and former employees covered by the program shall be the greater of the premium rate based on the loss experience of that group or the premium rate based on the loss experience of the classification in which the group is placed until such time as the premium rate becomes based on the loss experience of the classification in which the group is placed.

A. Kip Wall
Chief Executive Officer

0012#081

DECLARATION OF EMERGENCY

Office of the Governor Board of Trustees of the State Employees Group Benefits Program

PPO Plan of Benefits Eligibility
(LAC 32:III.Chapters 1 - 7)

Pursuant to the authority granted by R.S. 42:871(C) and 874(B)(2), vesting the Board of Trustees with the responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees, through its Chief Executive Officer, hereby invokes the Emergency Rule provisions of R.S. 49:953(B).

The board finds that it is necessary to revise and amend provisions of the PPO Plan Document, including increasing the calendar year deductible for employees, imposing a calendar year deductible for prescription drugs, increasing

the deductible applicable to emergency room services, imposing a pre-existing condition limitation on new employees and their dependents, eliminating benefits for glucometers, and providing for limited availability of a 90-day supply of maintenance drugs.

Failure to adopt this Rule on an emergency basis will adversely affect fiscal solvency of the State Employees Group Benefits Program and impact the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, the following Emergency Rule, revising and amending the PPO Plan of Benefits, is effective January 1, 2001, and shall remain in effect for a maximum of 120 days, or until the final rule is promulgated, which ever occurs first.

Title 32

EMPLOYEE BENEFITS

Part III. Exclusive Provider (PPO) Plan of Benefits

Chapter 1. Eligibility

§101. Persons to be Covered

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

A. Employee Coverage

1. - 2. ...

3. Effective dates of coverage, New Employee, Transferring Employee Coverage for each Employee who completes the applicable Enrollment Form and agrees to make the required payroll contributions to his Participant Employer is to be effective as follows:

a. - b. ...

c. Employee Coverage will not become effective unless the Employee completes an Enrollment Form within 30 days following the date of employment. An Employee who completes an Enrollment Form after 30 days following the date of employment will be considered an overdue applicant.

d. An Employee that transfers employment to another Participating Employer must complete a Transfer Form within 30 days following the date of transfer in order to maintain coverage without interruption. An Employee who completes a Transfer Form after 30 days following the date of transfer will be considered an overdue applicant.

4. - 7. ...

8. Pre-Existing Condition (PEC) New Employees (on and after January 1, 2001)

a. The terms of the following paragraphs apply to all eligible Employees whose employment with a Participant Employer commences on or after January 1, 2001, and to the Dependents of such Employees.

b. The Program may require that such applicants complete a "Statement of Physical Condition" and an "Acknowledgement of Pre-existing Condition" form.

c. Medical expenses incurred during the first 12 months that coverage for the Employee and/or Dependent is in force under the Plan will not be considered as covered medical expenses if they are in connection with a disease, illness, accident or injury for which medical advice, diagnosis, care, or Treatment was recommended or received during the 6-month period immediately prior to the effective date of coverage. The provisions of this section do not apply to pregnancy.

d. If the Covered Person was previously covered under a Group Health Plan, Medicare, Medicaid or other creditable coverage as defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), credit will be given for previous coverage that occurred without a break of 63 days or more for the duration of prior coverage against the initial 12-month period. Any coverage occurring prior to a break in coverage 63 days or more will not be credited against a pre-existing condition exclusion period.

B. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1825 (October 1999), LR 27:

§103. Continued Coverage

A. - B. ...

C. Surviving Dependents/Spouse

The provisions of this section are applicable to surviving Dependents who elect to continue coverage following the death of an Employee or Retiree. On or after July 1, 1999, eligibility ceases for a Covered Person who becomes eligible for coverage in a Group Health Plan other than Medicare. Coverage under the Group Health Plan may be subject to HIPAA.

1. Benefits under the Plan for covered Dependents of a deceased covered Employee or Retiree will terminate on the last day of the month in which the Employee's or Retiree's death occurred unless the surviving covered Dependents elect to continue coverage.

a. ...

b. The surviving unmarried (never married) Children of an Employee or Retiree may continue coverage until they are eligible for coverage under a Group Health Plan other than Medicare, or until attainment of the termination age for Children, whichever occurs first;

C.1.c - D. ...

E. Family and Medical Leave Act (F.M.L.A.) Leave of Absence. An employee on approved F.M.L.A. leave may retain coverage for the duration of such leave. The participant employer shall pay the employer's share of the premium during F.M.L.A. leave, whether paid leave or leave without pay. The participant employer shall pay the employee's share of the premium during unpaid F.M.L.A. leave, subject to reimbursement by the employee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1827 (October 1999), LR 27:

§107. Change of Classification

A. Adding or Deleting Dependents The Plan Member must notify the Program whenever a Dependent is added to, or deleted from, the Plan Member's coverage that would result in a change in the class of coverage. Notice must be provided within 30 days of the addition or deletion.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1829 (October 1999), LR 27:

Chapter 3. Medical Benefits

§301. Medical Benefits apply when Eligible Expenses are Incurred by a Covered Person.

A. Eligible expenses are the charges incurred for the following items of service and supply. These charges are subject to the applicable deductibles, limits of the Fee Schedule, Schedule of Benefits, exclusions and other provisions of the Plan. A charge is incurred on the date that the service or supply is performed or furnished. Eligible expenses are:

1. - 8. ...

9. services of licensed speech therapist when prescribed by a physician and pre-approved through Outpatient Procedure Certification for the purpose of restoring partial or complete loss of speech resulting from stroke, surgery, cancer, radiation laryngitis, cerebral palsy, accidental injuries or other similar structural or neurological disease;

10. - 11.c. ...

d. accidental injury means a condition occurring as a direct result of a traumatic bodily injury sustained solely through accidental means from an external force. With respect to injuries to teeth, the act of chewing does not constitute an injury caused by external force.

12. Durable Medical Equipment, subject to the lifetime maximum payment limitation as listed in the Schedule of Benefits;

[The Program will require written certification by the treating physician to substantiate the medical necessity for the equipment and the length of time that it will be used. The purchase of Durable Medical Equipment will be considered an eligible expense only upon showing that the rental cost would exceed the purchase price. Under no circumstances may the eligible expense for an item of Durable Medical Equipment exceed the purchase price of such item.]

13. - 18. ...

19. acupuncture when rendered by a medical doctor licensed in the state in which the services are rendered;

20. ...

21. services of a Physical Therapist and Occupational Therapist licensed by the state in which the services are rendered when:

a. - e. ...

f. approved through case management when rendered in the home;

23. ...

24. not subject to the annual deductible;

a. ...

b. mammographic examinations performed according to the following schedule:

i. one mammogram during the five-year period a person is 35-39 years of age;

24.b.ii. - 26. ...

27. services rendered by the following, when billed by the supervising physician:

a. Perfusionists and Registered Nurse Assistants assisting in the operating room;

b. Physician's Assistants and Registered Nurse Practitioners;

28. - 32. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1830 (October 1999), LR 27:

§307. Utilization Review
Pre-Admission Certification, Continued Stay Review

A. ...

B. For a routine vaginal delivery, PAC is not required for a stay of two days or less. If the mother's stay exceeds or is expected to exceed two days, PAC is required within 24 hours after the delivery or the date on which any complications arose, whichever is applicable. If the baby's stay exceeds that of the mother, PAC is required within 72 hours of the mother's discharge and a separate pre-certification number must be obtained for the baby. In the case of a Caesarean Section, PAC is required if the mother's stay exceeds or is expected to exceed four days.

C. No benefits will be paid under the Plan:

1. ...

2. Unless PAC is requested within two business days following admission in the case of an emergency;

C.3. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1832 (October 1999), LR 27:

§309. Outpatient Procedure Certification

A. ...

B. OPC is required on the following procedures:

1. - 6. ...

7. speech therapy;

C. No benefits will be paid for the facility fee in connection with outpatient procedures, or the facility and professional fee in connection with speech therapy:

C.1. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1832 (October 1999), LR 27:

§311. Case Management

A. - E.8. ...

9. physical and occupational therapy rendered in a home setting.

F. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1833 (October 1999), LR 27:

§313. Dental Surgical Benefits

A. ...

B. Eligible expenses incurred in connection with the removal of impacted teeth, including pre-operative and post-operative care, anesthesia, radiology, and pathology services, and facility charges are subject to the deductible, co-insurance and the maximum benefit provisions of the Plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1833 (October 1999), LR 27:

§315. Medicare Reduction

A. ...

B. Retiree 100-Medicare COB. Upon enrollment and payment of the additional monthly premium, a Plan Member and Dependents who are covered under Medicare, both Parts A and B, may choose to have full coordination of benefits with Medicare. Enrollment must be made within 30 days of eligibility for Medicare or within 30 days of retirement if already eligible for Medicare and at the annual open enrollment.

§317. Exceptions and Exclusions for All Medical Benefits

A. No benefits are provided under this Plan for:

1. - 24. ...

25. Blank

26. - 40. ...

41. Glucometers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1834 (October 1999), LR 26:488 (March 2000), LR 27:

§323. Prescription Drug Benefits

A. This Plan allows benefits for drugs and medicines approved by the Food and Drug Administration or its successor, requiring a prescription, and dispensed by a licensed pharmacist or pharmaceutical company, but which are not administered to a Covered Person as an inpatient Hospital patient or an outpatient Hospital patient, including insulin, Retin-A dispensed for Covered Persons under the age of 26, Vitamin B12 injections, prescription Potassium Chloride, and over-the-counter diabetic supplies including, but not limited to, strips, lancets and swabs.

B. The following drugs, medicines, and related services are not covered:

1. - 10. ...

11. drugs for treatment of impotence, except following surgical removal of the prostate gland; and

12. glucometers.

C. ...

1. Upon presentation of the Group Benefits Program Health Benefits Identification Card at a network pharmacy, and after satisfying the Prescription Drug Deductible set forth in the Schedule of Benefits, the Plan Member will be responsible for copayment of \$8.00 per prescription when a generic drug is dispensed, \$25 per prescription when a preferred brand name drug is dispensed, and \$40 per prescription when a non-preferred brand name drug is dispensed. The copayment cannot exceed the actual charge by the pharmacy for the drug.

2. - 4. ...

5. Prescription drug dispensing and refills will be limited in accordance with protocols established by the prescription benefits manager, including the following limitations:

a. up to a 34-day supply of acute drugs may be dispensed at one time;

b. up to a 90-day supply of maintenance drugs may be dispensed at one time only at pharmacies identified as participating in the 90-day Maintenance Drug Plan administered by the prescription benefits manager; up to a 34-day supply of maintenance drugs may be dispensed at one time at any other network pharmacy; and

c. refills will be available only after 75 percent of drugs previously dispensed should have been consumed.

6. *Acute or Non-maintenance Drug* Ca covered drug other than a maintenance drug as define herein.

7. *Brand Drug* the trademark name of a drug approved by the U. S. Food and Drug Administration.

8. *Generic Drug* Ca chemically equivalent copy of a "brand name" drug.

9. *Maintenance Drug* Ca covered drug that is determined by the Program's contracted prescription benefits management firm, using standard industry reference materials, to be routinely taken over a long period of time for certain chronic medical conditions. The drug must be listed on the established maintenance drug list as an approved drug for the patient's condition

10. *Non-Preferred Brand Drug* Ca brand drug for which there is an equally effective, less costly therapeutic alternative available, as determined by the Pharmacy and Therapeutic Committee.

11. *Pharmacy and Therapeutic Committee* Ca committee created by the Program's contracted prescription benefits management firm to advise its various plans on whether a drug has been accepted as safe and effective or investigations as well as whether a drug will be classified as a Preferred Brand Drug or a Non-Preferred Brand Drug. In making these determinations, the Pharmacy and Therapeutic Committee relies on the United States Food and Drug Administration as well as peer reviewed medical journals.

12. *Preferred Brand Drug* Ca brand name drug that has received a classification of Preferred Brand from the Pharmacy and Therapeutic Committee based on the following criteria:

- a. clinical uniqueness of the medication;
- b. positive efficacy profile;
- c. good side effect, safety, and drug interaction profile;
- d. positive quality of the implications;
- e. clinical experience with the medication; and
- f. cost (only considered when clinical parameters are equal to other products in its class).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1835 (October 1999), LR 27:

Chapter 4. Uniform Provisions

§403. Properly Submitted Claim Form

- A. For Plan reimbursements, all bills must show:
 1. employee's name;
 2. name of patient;
 3. name, address, and telephone number of the provider of care;
 4. diagnosis;
 5. type of services rendered, with diagnosis and/or procedure codes;
 6. date of service;
 7. charges;
 8. employee's member number;
 9. provider Tax Identification number; and
 10. medicare explanation of benefits, if applicable.

B. The Program can require additional documentation in order to determine the extent of coverage or the appropriate reimbursement. Failure to furnish the requested information

within 90 days of the request will constitute reason for the denial of benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1836 (October 1999), LR 27:

Chapter 5. Claims Review and Appeal

§501. Claims Review Procedures and Appeals

A. ...

B. The request for review must be directed to Attention: Appeals and Grievances within 90 days after the date of the notification of denial of benefits, denial of eligibility, or denial after review by the utilization review, pharmacy benefit or mental health contractors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1838 (October 1999), LR 27:

§511. Subpoena of Witnesses; Production of Documents

A. - B. ...

C. No subpoena will be issued requiring the attendance and giving of testimony by witnesses unless a written request therefore is received in the office of the Program, Attention: Appeals and Grievances no later than 15 calendar days before the date fixed for the hearing. The request for subpoenas must contain the names of the witnesses and a statement of what is intended to be proved by each witness. No subpoenas will be issued until the party requesting the subpoena deposits with the Program a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled.

D. No subpoena for the production of books, papers and other documentary evidence will be issued unless written request therefore is received in the office of the Program, Attention: Appeals and Grievances no later than 15 calendar days before the date fixed for the hearing. The request for subpoena for books, papers, and other documentary evidence must contain a description of the items to be produced in sufficient detail for identification and must contain the name and street address of the person who is to be required to produce the items and a brief statement of what is intended to be proved by each item.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1839 (October 1999), LR 27:

§513. Appeals Decisions

A. ...

B. Appeals Heard by Referee. At the conclusion of the hearing, the Referee will take the matter under submission and, as soon as is reasonably possible thereafter, prepare a recommended decision in the case which will be based on the evidence adduced at the hearing or otherwise included in the hearing records. The decision will contain findings of fact and statement of reasons. The recommended decision will be submitted to the Committee for review.

C. The Committee may adopt or reject the recommended decision. In the case of adoption, the Referee's decision becomes the decision of the Committee. In the case of rejection, the Committee will render its decision, which will

include a statement of reasons for disagreement with the Referee's decision. The decision of the Committee will be final. A copy will be mailed by certified mail to the Covered Person and any Representative thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1839 (October 1999), LR 27:

§515. Rehearing

A. - B. ...

C. The request for rehearing must be filed with the Program, Attention: Appeals and Grievances on or before 30 calendar days after the mailing of the appeal decision of the Committee. The request will be deemed filed on the date it is received in the office of the Program.

D. ...

E. When the Committee grants a rehearing, an order will be issued setting forth the grounds. A copy of the order will be sent, along with notice of the time and place fixed for the rehearing, to the Appealing Party and any Representative by certified mail.

F. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1840 (October 1999), LR 27:

Chapter 6. Definitions

*Accidental Injury*Ca condition occurring as a direct result of a traumatic bodily injury sustained solely through accidental means from and external force. With respect to injuries to teeth, the act of chewing does not constitute an injury caused by external force.

*Acute or Non-maintenance Drug*Ca covered drug other than a maintenance drug as define herein.

*Brand Drug*Ca the trademark name of a drug approved by the U. S. Food and Drug Administration.

ChildrenCa

1. any legitimate, duly acknowledged, or legally adopted Children of the Employee and/or the Employee's legal spouse dependent upon the Employee for support;

2. - 4. ...

*Generic Drug*Ca chemically equivalent copy of a "brand name" drug.

*Maintenance Drug*Ca covered drug that is determined by the Program's contracted prescription benefits management firm, using standard industry reference materials, to be routinely taken over a long period of time for certain chronic medical conditions. The drug must be listed on the established maintenance drug list as an approved drug for the patient's condition.

*Non-Preferred Brand Drug*Ca brand drug for which there is an equally effective, less costly therapeutic alternative available, as determined by the Pharmacy and Therapeutic Committee.

*Pharmacy and Therapeutic Committee*Ca committee created by the Program's contracted prescription benefits management firm to advise its various plans on whether a drug has been accepted as safe and effective or investigations as well as whether a drug will be classified as a Preferred Brand Drug or a Non-Preferred Brand Drug. In making these determinations, the Pharmacy and Therapeutic Committee relies on the United States Food and Drug Administration as well as peer reviewed medical journals.

*Preferred Brand Drug*Ca brand name drug that has received a classification of Preferred Brand from the Pharmacy and Therapeutic Committee based on the following criteria:

1. clinical uniqueness of the medication;
2. positive efficacy profile;
3. good side effect, safety, and drug interaction profile;
4. positive quality of the implications;
5. clinical experience with the medication; and
6. cost (only considered when clinical parameters are equal to other products in its class).

*Well-Baby Care*Croutine care to a well newborn infant from the date of birth until age 1. This includes routine physical examinations, active immunizations, check-ups, and office visits to a physician and billed by that physician, except for the Treatment and/or diagnosis of a specific illness. All other health services coded with wellness procedures and diagnosis codes are excluded.

*Well-Child Care*Croutine physical examinations, active immunizations, check-ups and office visits to a Physician, and billed by a health care provider that has entered into a contract with the State Employees Benefits Program, except for the Treatment and/or diagnosis of a specific illness, from age 1 to age 16. All other health services coded with wellness procedures and diagnosis codes are excluded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1840 (October 1999), LR 27:

Chapter 7 - Schedule of Benefits-PPO

§701 Comprehensive Medical Benefits

A. ...

1. Deductibles:

Inpatient deductible per day, maximum of 5 days per admission (waived for admissions at PPO Hospitals)	\$50
Emergency room charges for each visit unless the Covered Person is hospitalized immediately following emergency room Treatment (prior to and in addition to Calendar Year deductible)	\$150
Professional and other eligible expenses, Employees and Dependents of Employees, Per person, per Calendar Year	\$500 \$300
Professional and other eligible expenses, Retirees and Dependents of Retirees, Per person, per Calendar Year	
Family Unit maximum (3 individual deductibles)	
Prescription Drugs, Per person, per Calendar Year (separate from and in addition to all other deductibles)	\$150

2. - 3. ...

4. Prescription Drugs

After Deductible (\$150 per person, per Calendar Year) 50% non-Network in state
\$8 copayment for generic drugs, \$25 copayment for preferred brand name drugs, and \$40 copayment for non-preferred brand name drugs purchased at a network pharmacy 80% non-Network out of state

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1843 (October 1999), LR 26:488 (March 2000), LR 27:

A. Kip Wall
Interim Chief Executive Officer

0012#041

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Community Supports and Services

Home and Community Based Services Waiver ProgramCChildren's Choice Crisis Designation

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services adopts the following Emergency Rule under the Administrative Procedure Act, R.S. 49:950 et seq. The emergency rule shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted a rule implementing a Home and Community Based Services waiver called Children's Choice effective January 15, 2001 (*Louisiana Register*, Volume 26, Number 12). Children's Choice provides supplemental services, limited to \$7,500 per year per child for waiver services, to children with developmental disabilities who live with their families. Waiver recipients also receive all medical services covered by Medicaid, including Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) services. Families of children whose names are on the Mentally Retarded/Developmentally Disabled (MR/DD) waiver waiting list may choose to either apply for Children's Choice or have the child remain on the MR/DD waiting list. Families will be offered this choice in the order that the child's name was added to the MR/DD waiver waiting list, which has been combined into a single state-wide list from regional lists.

Children's Choice is designed to provide an attractive alternative to the MR/DD waiver. Services are designed to allow greater flexibility to enhance family functioning. Another unique feature is portability of the child's waiver slot: children who age out (reach their nineteenth birthday) will transfer with their waiver slot into a waiver that serves adults with developmental disabilities. In a continuing effort to address the concerns of families who will consider choosing Children's Choice, the department now proposes to adopt provisions for additional supports outside the \$7,500 cap on waiver service expenditures should certain

catastrophic events occur after a child has been found eligible for Children's Choice.

This action is necessary to avoid imminent peril to children with mental retardation or developmental disabilities who are participants in Children's Choice by providing a process by which additional services may be reimbursed in the event of a crisis that threatens the health and welfare of the child.

Emergency Rule

Effective January 15, 2001, the Department of Health and Hospitals, Bureau of Community Supports and Services adopts the following regulations regarding crisis provisions for children who participate in Children's Choice. This procedure is adopted on a trial basis for one year, beginning with the implementation date of the waiver.

Families must choose to either accept Children's Choice services or remain on the MR/DD Waiver waiting list. This is an individual decision based on a family's current circumstances. In the event that a family chooses Children's Choice for their child and later experiences a crisis that increases the need for paid supports to a level that cannot be accommodated within the \$7,500 cap on waiver expenditures, they may request consideration for a crisis designation. A crisis is defined as a catastrophic change in circumstances rendering the natural and community support system unable to provide for the health and welfare of the child at the level of benefits offered under Children's Choice. The following procedure has been developed to address these situations.

Crisis Designation Criteria

In order to be considered a crisis, one of the following circumstances must exist:

1. death of the caregiver with no other supports (i.e., other family) available; or
2. the caregiver incapacitated with no other supports (i.e., other family) available; or
3. the child is committed to the custody of DHH by the court; or
4. other family crisis with no caregiver support available, such as abuse/neglect, or a second person in the household becomes disabled and must be cared for by same caregiver, causing inability of the natural care giver to continue necessary supports to assure health and safety.

Provisions of a Crisis Designation

Additional services (crisis support) outside of the waiver cap amount may be approved by the Bureau of Community Supports and Services (BCSS) State Office. Crisis designation is time limited, depending on the anticipated duration of the causative event. Each request for crisis designation may be approved for a maximum of three months initially, and for subsequent periods of up to three months, not to exceed 12 months total or until development of the next annual Comprehensive Plan of Care.

When the crisis designation is extended at the end of the initial duration (or at any time thereafter), the family may request the option of returning the child's name to the original application date on the MR/DD waiting list when it is determined that the loss of caregiver and lack of natural or community supports will be long-term or permanent. This final determination will be made by BCSS. Eligibility and services through Children's Choice shall continue as long as the child meets eligibility criteria.

Interested persons may submit written comments to: Barbara Dodge, Bureau of Community Supports and Services, P.O. Box 91030, Baton Rouge, Louisiana 70821-9030. She is the person responsible for responding to all inquiries regarding this emergency rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0012#057

DECLARATION OF EMERGENCY

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

Public Hospitals CReimbursement Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953 (B) (1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule in June of 1994 which established the prospective reimbursement methodology for inpatient services provided in non-state operated acute care hospitals (*Louisiana Register*, Volume 20, Number 6). The reimbursement methodology was subsequently amended in a rule adopted in January of 1996 which established a weighted average per diem for each hospital peer group (*Louisiana Register*, Volume 22, Number 1). The January 1996 rule was later amended to discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates in those years when the rates are not rebased (*Louisiana Register*, Volume 25, Number 5).

Act 11 of the 2000 Second Extraordinary Session of the Louisiana Legislature directs the Department of Health and Hospitals to implement procedures to receive transfers of public funds from qualifying health care providers that will qualify as the state's matching share for the purpose of claiming federal financial participation (FFP). The department defines a qualifying health care provider as any public provider owned by a parish, city or other local government agency or instrumentality. This definition includes facilities owned jointly by two or more government entities, but does not include facilities owned jointly by government and private organizations. The bureau proposes to amend the reimbursement methodology for all non-state public hospitals (other than those recognized as small rural hospitals) to pay each hospital's unreimbursed Medicaid costs incurred in providing care to Medicaid recipients. This action is being taken to enhance federal revenues in the Medicaid Program. It is estimated that the expenditures necessary to implement this emergency rule will be

approximately \$13,352,079 in federal funds only for State Fiscal Year 2001.

Emergency Rule

Effective December 21, 2000, the Department of Health and Hospitals, Bureau of Health Services Financing establishes a supplemental payment to be issued to non-state public hospitals, which are not recognized by the Department as a small rural hospital, for unreimbursed Medicaid costs incurred in providing care to Medicaid recipients. Issuance of the supplemental payment is contingent on the public hospital entering into a cooperative endeavor agreement with the department to certify public funds as representing expenditures eligible for FFP.

The supplemental payment shall be calculated from each hospital's latest audited Medicaid cost report. The payment amount shall be determined by subtracting the actual Medicaid reimbursements from the total Medicaid costs as calculated from the audited cost report. The Medicaid reimbursements and Medicaid costs shall include inpatient (acute and psychiatric services) hospital services and outpatient hospital services. This amount shall then be inflated forward to State Fiscal Year 2001 using the annual Medicare PPS Marketbasket Index. There will be no adjustment to this payment if additional costs are identified subsequent to the completion of the audit process.

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

David W. Hood
Secretary

0012#056

DECLARATION OF EMERGENCY

Department of Insurance Office of the Commissioner

Regulation 76C Privacy of Consumer Financial Information (LAC 37:XIII.Chapter 99)

In accordance with the provisions of Louisiana Revised Statutes Title 49, Section 953(B) of the Administrative Procedures Act, the Department of Insurance has adopted an emergency regulation, Regulation 76, in order to implement without delay the provisions of Title V of the Gramm-Leach-Bliley Act and R.S. 22:3063. The federal act gives State insurance regulators the authority to establish appropriate standards for the collection, use and disclosure of nonpublic personal information gathered in connection with insurance transactions by insurance institutions, agents or insurance support organizations in their state, which is the purpose of Emergency Regulation 76. Because the effective date of the federal law is November 13, 2000, and the compliance date set forth in its accompanying federal regulation is July 1, 2001, affected parties must be given an opportunity to implement policies and procedures within their organizations to carry out the provisions of the mandate, identify those individuals who must be given notice and determine what

type of notice is to be given, draft appropriate privacy notices, and finally, provide notice by July 1, 2001.

Emergency rulemaking is necessary to immediately set forth these standards so that insurance institutions, agents and insurance support organizations will have adequate time to comply with federal and state mandates. Emergency rulemaking is necessary for protection of the threat of the public welfare caused by disclosure of consumers' nonpublic personal information in this state.

Additionally, emergency rulemaking is necessary to the extent that Title V of the Gramm-Leach-Bliley Act specifically provides that "If a State insurance authority fails to adopt regulations to carry out [Title V of the Gramm-Leach-Bliley Act] such State shall not be eligible to override, pursuant to Section 47(g)(2)(B)(iii) of the Federal Deposit Insurance Act, the insurance customer protection regulations prescribed by a Federal banking agency under Section 47(a) of such Act." In other words, the State will be statutorily penalized if it fails to adopt regulations to implement the Gramm-Leach Bliley Act privacy requirements, losing its authority to federal banking agencies and not being eligible to override the insurance customer protection regulations prescribed by a Federal banking agency under Section 305 of the Act.

Preamble

Congress' passage of the Gramm-Leach-Bliley Act (GLBA) in November 1999 requires financial institutions, including insurers, to protect the privacy of consumers. Title V of the Act sets forth these new Federal requirements, and provides that regulations be established by Federal and State agencies to implement the Act's privacy protections.

GLBA regulations developed by the Federal government apply to nonpublic personal information about individuals who obtain or are beneficiaries of products or services primarily for personal, family or household purposes from licensees. The National Association of Insurance Commissioners Insurance Information and Privacy Protection Act (NAIC Model Act) establishes standards for the collection, use and disclosure of information gathered in connection with insurance transactions by insurance institutions, agents, or insurance support organizations. It applies to life, health, disability, and property and casualty insurance entities.

The NAIC model regulation implementing GLBA standards for insurers (NAIC GLBA Regulation) closely follows the Federal GLBA Regulations in most places, although the NAIC GLBA Regulation expands the applicability of the law beyond the minimum standards, especially for health. The NAIC GLBA Regulation applies to nonpublic personal financial information about individuals who obtain or are the beneficiary of products or services primarily for personal, family or household purposes from licensees. It does not apply to information about companies or about individuals who obtain products or services from business, commercial or agricultural purposes, but it does apply to nonpublic personal financial information about individuals who obtain products or services for personal, family or household purposes from licensees through group plans and all nonpublic personal health information.

Regulation 76 is drafted in accordance with the NAIC GLBA Model Regulation, and contains some revisions in order for the regulation to comply with current state insurance law. Regulation 76 does not include those portions of the NAIC or GLBA regulation that pertain to non-public personal health information.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 99. Regulation 76C Privacy of Consumer

Subchapter A. General Provisions

§9901. Authority

A. This regulation is adopted pursuant to R.S. 22:2 which charges the commissioner of insurance with the duty to enforce and administer all of the provisions of the Insurance Code, the purpose of which is to regulate the business of insurance in all of its phases in the public interest. Sections 501(b) and 505(a)(6) of the Gramm-Leach-Bliley Act specifically designate the Department of Insurance as the agency to establish the appropriate standards covering any person engaged in providing insurance under state law. R.S. 22:3 grants the commissioner of insurance authority to promulgate rules and regulations as are necessary for the implementation of the provisions of Title 22. R.S. 22:3052 specifically refers to the protection of the interests of insurance policyholders in this state with respect to financial institution insurance sales, and R.S. 22:3054 grants the commissioner of insurance authority to promulgate rules and regulations as may be necessary to effectuate the provisions of Chapter 6 Financial Institution Sales in Title 22.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:3052, 22:3054, and Gramm-Leach-Bliley Act, Public Law 106-102 – Nov. 12, 1999).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:

§9903. Purpose

A. The purpose of this regulation is to govern the treatment of nonpublic personal financial information about individuals by all licensees of the state insurance department. This regulation:

1. requires a licensee to provide notice to individuals about its privacy policies and practices;
2. describes the conditions under which a licensee may disclose nonpublic personal financial information about individuals to affiliates and nonaffiliated third parties; and
3. provides methods for individuals to prevent a licensee from disclosing that information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:3052, 22:3054, and Gramm-Leach-Bliley Act, Public Law 106-102 – Nov. 12, 1999).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:

§9905. Scope and Applicability

A. This regulation applies to:

1. nonpublic personal financial information about individuals who obtain or are claimants or beneficiaries of products or services primarily for personal, family or household purposes from licensees. This regulation does not apply to information about companies or about individuals who obtain products or services for business, commercial or agricultural purposes; and

B. Compliance. A licensee domiciled in this state that is in compliance with this regulation in a state that has not enacted laws or regulations that meet the requirements of Title V of the Gramm-Leach-Bliley Act (PL 102-106) may nonetheless be deemed to be in compliance with Title V of the Gramm-Leach-Bliley Act in such other state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:3052, 22:3054 and Gramm-Leach-Bliley Act, Public Law 106-102 – Nov. 12, 1999).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:

§9907. Rule of Construction

A. The examples in this regulation and the sample clauses in Appendix A of this regulation are not exclusive. Compliance with an example or use of a sample clause, to the extent applicable, constitutes compliance with this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:3052, 22:3054 and Gramm-Leach-Bliley Act, Public Law 106-102 – Nov. 12, 1999).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:

§9909. Definitions

A. As used in this regulation, unless the context requires otherwise:

Affiliate Any company that controls, is controlled by or is under common control with another company.

Clear and Conspicuous That a notice is reasonably understandable and designed to call attention to the nature and significance of the information in the notice. Examples:

a. reasonably understandable. A licensee makes its notice reasonably understandable if it:

i. presents the information in the notice in clear, concise sentences, paragraphs, and sections;

ii. uses short explanatory sentences or bullet lists whenever possible;

iii. uses definite, concrete, everyday words and active voice whenever possible;

iv. avoids multiple negatives;

v. avoids legal and highly technical business terminology whenever possible; and

vi. avoids explanations that are imprecise and readily subject to different interpretations;

b. designed to call attention. A licensee designs its notice to call attention to the nature and significance of the information in it if the licensee:

i. uses a plain-language heading to call attention to the notice;

ii. uses a typeface and type size that are easy to read;

iii. provides wide margins and ample line spacing;

iv. uses boldface or italics for key words; and

v. in a form that combines the licensee's notice with other information, uses distinctive type size, style, and graphic devices, such as shading or sidebars;

c. notices on web sites. If a licensee provides a notice on a web page, the licensee designs its notice to call attention to the nature and significance of the information in it if the licensee uses text or visual cues to encourage scrolling down the page if necessary to view the entire notice and ensure that other elements on the web site (such as text, graphics, hyperlinks or sound) do not distract attention from the notice, and the licensee either:

i. places the notice on a screen that consumers frequently access, such as a page on which transactions are conducted; or

ii. places a link on a screen that consumers frequently access, such as a page on which transactions are conducted that connects directly to the notice and is labeled appropriately to convey the importance, nature and relevance of the notice.

Collect To obtain information that the licensee organizes or can retrieve by the name of an individual or by identifying number, symbol or other identifying particular assigned to the individual, irrespective of the source of the underlying information.

Commissioner The commissioner of insurance.

Company Any natural person, partnership, corporation, association, business, trust, unincorporated organization, or other form of business enterprise, plural or singular, as the case demands.

Consumer Can an individual who seeks to obtain, obtains or has obtained an insurance product or service from a licensee that is to be used primarily for personal, family or household purposes, and about whom the licensee has nonpublic personal information, or that individual's legal representative. Examples:

a. an individual who provides nonpublic personal information to a licensee in connection with obtaining or seeking to obtain financial, investment or economic advisory services relating to an insurance product or service is a consumer regardless of whether the licensee establishes an ongoing advisory relationship;

b. an applicant for insurance prior to the inception of insurance coverage is a licensee's consumer;

c. an individual who is a consumer of another financial institution is not a licensee's consumer solely because the licensee is acting as agent for, or provides processing or other services to, that financial institution;

d. an individual is a licensee's consumer if:

i.(a). the individual is a beneficiary of a life insurance policy underwritten by the licensee;

(b). the individual is a claimant under an insurance policy issued by the licensee;

(c). the individual is an insured or an annuitant under an insurance policy or an annuity, respectively, issued by the licensee; or

(d). the individual is a mortgagor of a mortgage covered under a mortgage insurance policy; and

ii. the licensee discloses nonpublic personal financial information about the individual to a nonaffiliated third party other than as permitted under §§9929, 9931 and 9933 of this regulation.

e. Provided that the licensee provides the initial, annual and revised notices under §§9911, 9913 and 9919 of this regulation to the plan sponsor, group or blanket insurance policyholder or group annuity contract holder, workers' compensation plan participant, and further provided that the licensee does not disclose to a nonaffiliated third party nonpublic personal financial information about such an individual other than as permitted under §§9929, 9931 and 9933 of this regulation, an individual is not the consumer of the licensee solely because he or she is:

- i. a participant or a beneficiary of an employee benefit plan that the licensee administers or sponsors or for which the licensee acts as a trustee, insurer or fiduciary;
 - ii. covered under a group or blanket insurance policy or group annuity contract issued by the licensee; or
 - iii. a beneficiary in a workers' compensation plan;
- f.i. the individuals described in Subparagraph e.i - iii of this Paragraph are consumers of a licensee if the licensee does not meet all the conditions of Subparagraph e;
- ii in no event shall the individuals, solely by virtue of the status described in Subparagraph e.i through iii above, be deemed to be customers for purposes of this regulation;
- g. An individual is not a licensee's consumer solely because he or she is a beneficiary of a trust for which the licensee is a trustee;
- h. an individual is not a licensee's consumer solely because he or she has designated the licensee as trustee for a trust.

Consumer Reporting Agency C has the same meaning as in Section 603(f) of the federal Fair Credit Reporting Act (15 U.S.C. 1681a(f)).

Control C

- a. ownership, control or power to vote ten percent (10%) or more of the outstanding shares of any class of voting security of the company, directly or indirectly, or acting through one or more other persons;
- b. control in any manner over the election of a majority of the directors, trustees or general partners (or individuals exercising similar functions) of the company; or
- c. the power to exercise, directly or indirectly, a controlling influence over the management or policies of the company, as the commissioner determines.

Customer C a consumer who has a customer relationship with a licensee.

Customer Relationship C a continuing relationship between a consumer and a licensee under which the licensee provides one or more insurance products or services to the consumer that are to be used primarily for personal, family or household purposes. Examples:

- a. a consumer has a continuing relationship with a licensee if:
 - i. the consumer is a current policyholder of an insurance product issued by or through the licensee; or
 - ii. the consumer obtains financial, investment or economic advisory services relating to an insurance product or service from the licensee for a fee;
- b. a consumer does not have a continuing relationship with a licensee if:
 - i. the consumer applies for insurance but does not purchase the insurance;
 - ii. the licensee sells the consumer airline travel insurance in an isolated transaction;
 - iii. the individual is no longer a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee;
 - iv. the consumer is a beneficiary or claimant under a policy and has submitted a claim under a policy choosing a settlement option involving an ongoing relationship with the licensee;

- v. the consumer is a beneficiary or a claimant under a policy and has submitted a claim under that policy choosing a lump sum settlement option;
- vi. the customer's policy is lapsed, expired, or otherwise inactive or dormant under the licensee's business practices, and the licensee has not communicated with the customer about the relationship for a period of 12 consecutive months, other than annual privacy notices, material required by law or regulation, communication at the direction of a state or federal authority, or promotional materials;

vii. the individual is an insured or an annuitant under an insurance policy or annuity, respectively, but is not the policyholder or owner of the insurance policy or annuity; or

viii. for the purposes of this regulation, the individual's last known address according to the licensee's records is deemed invalid. An address of record is deemed invalid if mail sent to that address by the licensee has been returned by the postal authorities as undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual have been unsuccessful.

Financial Institution C for the purposes of this regulation means any institution the business of which is engaging in activities that are financial in nature or incidental to such financial activities as described in Section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)). Financial institution does not include:

- a. any person or entity with respect to any financial activity that is subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.);
- b. the Federal Agricultural Mortgage Corporation or any entity charged and operating under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.); or
- iii. institutions chartered by Congress specifically to engage in securitizations, secondary market sales (including sales of servicing rights) or similar transactions related to a transaction of a consumer, as long as the institutions do not sell or transfer nonpublic personal information to a nonaffiliated third party.

Financial Product or Service C any product or service that a financial holding company could offer by engaging in an activity that is financial in nature or incidental to such a financial activity under Section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)).

a. Financial service includes a financial institution's evaluation or brokerage of information that the financial institution collects in connection with a request or an application from a consumer for a financial product or service.

Insurance Product or Service C any product or service that is offered by a licensee pursuant to the insurance laws of this state.

a. insurance service includes a licensee's evaluation, brokerage or distribution of information that the licensee collects in connection with a request or an application from a consumer for an insurance product or service.

Licensee C all licensed insurers, producers and other persons licensed or required to be licensed, or authorized or required to be authorized, or registered or required to be registered with the commissioner of insurance.

a. Producers include persons required to be licensed under the laws of this state to sell, solicit or negotiate insurance, including, but not limited to agents, brokers, solicitors and surplus lines brokers.

b. A licensee is not subject to the notice and opt out requirements for:

i. nonpublic personal financial information set forth in Subchapters A, B, C;

ii. and D of this regulation if the licensee is an employee, agent or other representative of another licensee ("the principal") and:

(a). the principal otherwise complies with, and provides the notices required by, the provisions of this regulation; and

(b). the licensee does not disclose any nonpublic personal information to any person other than the principal or its affiliates in a manner permitted by this regulation.

c.i. Subject to Clause i, *licensee* shall also include an unauthorized insurer that accepts business placed through a licensed surplus lines broker in this state, but only in regard to the surplus lines placements placed pursuant to R.S. 22:1248, et seq. of this state's laws.

ii. A surplus lines broker or unauthorized insurer shall be deemed to be in compliance with the notice and opt out requirements for nonpublic personal financial information set forth in Subchapters A, B, C and D of this regulation provided:

(a). the broker or insurer does not disclose nonpublic personal information of a consumer or a customer to nonaffiliated third parties for any purpose, including joint servicing or marketing under §9929 of this regulation, except as permitted by §9931 or §9933 of this regulation; and

(b). the broker or insurer delivers a notice to the consumer at the time a customer relationship is established on which the following is printed in 16-point type:

PRIVACY NOTICE

NEITHER THE U.S. BROKERS THAT HANDLED THIS INSURANCE NOR THE INSURERS THAT HAVE UNDERWRITTEN THIS INSURANCE WILL DISCLOSE NONPUBLIC PERSONAL INFORMATION CONCERNING THE BUYER TO NONAFFILIATES OF THE BROKERS OR INSURERS EXCEPT AS PERMITTED BY LAW.

Nonaffiliated Third Party Any person except:

a. a licensee's affiliate; or

b. a person employed jointly by a licensee and any company that is not the licensee's affiliate (but nonaffiliated third party includes the other company that jointly employs the person).

c. nonaffiliated third party includes any company that is an affiliate solely by virtue of the direct or indirect ownership or control of the company by the licensee or its affiliate in conducting merchant banking or investment banking activities of the type described in Section 4(k)(4)(H) or insurance company investment activities of the type described in Section 4(k)(4)(I) of the federal Bank Holding Company Act (12 U.S.C. 1843(k)(4)(H) and (I)).

Nonpublic Personal Information Nonpublic personal financial information.

Nonpublic Personal Financial Information

a. personally identifiable financial information; and

b. any list, description or other grouping of consumers (and publicly available information pertaining to

them) that is derived using any personally identifiable financial information that is not publicly available.

c. Nonpublic personal financial information does not include:

i. health information;

ii. publicly available information, except as included on a list described in Subsection T(1)(b) of this section; or

iii. any list, description or other grouping of consumers (and publicly available information pertaining to them) that is derived without using any personally identifiable financial information that is not publicly available.

d. Examples of Lists

i. Nonpublic personal financial information includes any list of individuals' names and street addresses that is derived in whole or in part using personally identifiable financial information that is not publicly available, such as account numbers.

ii. Nonpublic personal financial information does not include any list of individuals' names and addresses that contains only publicly available information, is not derived in whole or in part using personally identifiable financial information that is not publicly available, and is not disclosed in a manner that indicates that any of the individuals on the list is a consumer of a financial institution.

Personally Identifiable Financial Information Any information:

a. a consumer provides to a licensee to obtain an insurance product or service from the licensee;

b. about a consumer resulting from a transaction involving an insurance product or service between a licensee and a consumer; or

c. the licensee otherwise obtains about a consumer in connection with providing an insurance product or service to that consumer.

d. Examples

i. Information included. Personally identifiable financial information includes:

(a). information a consumer provides to a licensee on an application to obtain an insurance product or service;

(b). account balance information and payment history;

(c). the fact that an individual is or has been one of the licensee's customers or has obtained an insurance product or service from the licensee;

(d). any information about the licensee's consumer if it is disclosed in a manner that indicates that the individual is or has been the licensee's consumer;

(e). any information that a consumer provides to a licensee or that the licensee or its agent otherwise obtains in connection with collecting on a loan or servicing a loan;

(f). any information the licensee collects through an Internet cookie (an information-collecting device from a web server); and

(g) information from a consumer report.

ii. Information not included. Personally identifiable financial information does not include:

(a). health information;

(b). a list of names and addresses of customers of an entity that is not a financial institution; and

(c). information that does not identify a consumer, such as aggregate information or blind data that does not contain personal identifiers such as account numbers, names or addresses.

Publicly Available Information Any information that a licensee has a reasonable basis to believe is lawfully made available to the general public from:

- a. federal, state or local government records;
- b. widely distributed media; or
- c. disclosures to the general public that are required to be made by federal, state or local law.

d. **Reasonable Basis.** A licensee has a reasonable basis to believe that information is lawfully made available to the general public if the licensee has taken steps to determine:

- i. that the information is of the type that is available to the general public; and
- ii. whether an individual can direct that the information not be made available to the general public and, if so, that the licensee's consumer has not done so.

e. **Examples**

i. **Government Records.** Publicly available information in government records includes information in government real estate records and security interest filings.

ii. **Widely distributed media.** Publicly available information from widely distributed media includes information from a telephone book, a television or radio program, a newspaper or a web site that is available to the general public on an unrestricted basis. A web site is not restricted merely because an Internet service provider or a site operator requires a fee or a password, so long as access is available to the general public.

f. **Reasonable Basis**

i. A licensee has a reasonable basis to believe that mortgage information is lawfully made available to the general public if the licensee has determined that the information is of the type included on the public record in the jurisdiction where the mortgage would be recorded.

ii. A licensee has a reasonable basis to believe that an individual's telephone number is lawfully made available to the general public if the licensee has located the telephone number in the telephone book or the consumer has informed you that the telephone number is not unlisted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:3052, 22:3053, 22:3054 and Gramm-Leach-Bliley Act, Public Law 106-102 – Nov. 12, 1999).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:

Subchapter B. Privacy and Opt Out Notices for Financial Information

§9911. Initial Privacy Notice to Consumers Required

A. **Initial Notice Requirement.** A licensee shall provide a clear and conspicuous notice that accurately reflects its privacy policies and practices to:

1. customer. An individual who becomes the licensee's customer, not later than when the licensee establishes a customer relationship, except as provided in Subsection E of this section; and

2. consumer. A consumer, before the licensee discloses any nonpublic personal financial information about the consumer to any nonaffiliated third party, if the licensee makes a disclosure other than as authorized by §§9931 and 9933.

B. When initial notice to a consumer is not required. A licensee is not required to provide an initial notice to a consumer under Subsection A.2 of this section if:

1. The licensee does not disclose any nonpublic personal financial information about the consumer to any nonaffiliated third party, other than as authorized by §§9931 and 9933, and the licensee does not have a customer relationship with the consumer; or

2. A notice has been provided by an affiliated licensee, as long as the notice clearly identifies all licensees to whom the notice applies and is accurate with respect to the licensee and the other institutions.

C. **When the Licensee Establishes a Customer Relationship**

1. **General Rule.** A licensee establishes a customer relationship at the time the licensee and the consumer enter into a continuing relationship.

2. **Examples of establishing customer relationship.** A licensee establishes a customer relationship when the consumer:

a. becomes a policyholder of a licensee that is an insurer when the insurer delivers an insurance policy or contract to the consumer, or in the case of a licensee that is an insurance producer or insurance broker, obtains insurance through that licensee; or

b. agrees to obtain financial, economic or investment advisory services relating to insurance products or services for a fee from the licensee.

D. **Existing Customers.** When an existing customer obtains a new insurance product or service from a licensee that is to be used primarily for personal, family or household purposes, the licensee satisfies the initial notice requirements of Subsection A of this section as follows:

1. the licensee may provide a revised policy notice, under §9919, that covers the customer's new insurance product or service; or

2. if the initial, revised or annual notice that the licensee most recently provided to that customer was accurate with respect to the new insurance product or service, the licensee does not need to provide a new privacy notice under Subsection A of this section.

E. **Exceptions to allow subsequent delivery of notice.**

1. A licensee may provide the initial notice required by Subsection A.1 of this section within a reasonable time after the licensee establishes a customer relationship if:

a. establishing the customer relationship is not at the customer's election; or

b. providing notice not later than when the licensee establishes a customer relationship would substantially delay the customer's transaction and the customer agrees to receive the notice at a later time.

2. **Examples of Exceptions**

a. **Not at Customer's Election.** Establishing a customer relationship is not at the customer's election if a licensee acquires or is assigned a customer's policy from another financial institution or residual market mechanism and the customer does not have a choice about the licensee's acquisition or assignment.

b. **Substantial Delay of Customer's Transaction.** Providing notice not later than when a licensee establishes a customer relationship would substantially delay the customer's transaction when the licensee and the individual

agree over the telephone to enter into a customer relationship involving prompt delivery of the insurance product or service.

c. No Substantial Delay of Customer's Transaction. Providing notice not later than when a licensee establishes a customer relationship would not substantially delay the customer's transaction when the relationship is initiated in person at the licensee's office or through other means by which the customer may view the notice, such as on a web site.

F. Delivery. When a licensee is required to deliver an initial privacy notice by this section, the licensee shall deliver it according to §9921. If the licensee uses a short-form initial notice for non-customers according to §9915D, the licensee may deliver its privacy notice according to §9915D(3).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:3052, 22:3054 and Gramm-Leach-Bliley Act, Public Law 106-102 – Nov. 12, 1999).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:

§9913. Annual Privacy Notice to Customers Required

A.1. General Rule. A licensee shall provide a clear and conspicuous notice to customers that accurately reflects its privacy policies and practices not less than annually during the continuation of the customer relationship. Annually means at least once in any period of 12 consecutive months during which that relationship exists. A licensee may define the twelve-consecutive-month period, but the licensee shall apply it to the customer on a consistent basis.

2. Example. A licensee provides a notice annually if it defines the twelve-consecutive-month period as a calendar year and provides the annual notice to the customer once in each calendar year following the calendar year in which the licensee provided the initial notice. For example, if a customer opens an account on any day of year 1, the licensee shall provide an annual notice to that customer by December 31 of year two.

B.1. Termination of Customer Relationship. A licensee is not required to provide an annual notice to a former customer. A former customer is an individual with whom a licensee no longer has a continuing relationship.

2. Examples

a. A licensee no longer has a continuing relationship with an individual if the individual no longer is a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee.

b. A licensee no longer has a continuing relationship with an individual if the individual's policy is lapsed, expired or otherwise inactive or dormant under the licensee's business practices, and the licensee has not communicated with the customer about the relationship for a period of 12 consecutive months, other than to provide annual privacy notices, material required by law or regulation, or promotional materials.

c. For the purposes of this regulation, a licensee no longer has a continuing relationship with an individual if the individual's last known address according to the licensee's records is deemed invalid. An address of record is deemed invalid if mail sent to that address by the licensee has been returned by the postal authorities as undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual have been unsuccessful.

d. A licensee no longer has a continuing relationship with a customer in the case of providing real estate settlement services, at the time the customer completes execution of all documents related to the real estate closing, payment for those services has been received, or the licensee has completed all of its responsibilities with respect to the settlement, including filing documents on the public record, whichever is later.

D. Delivery. When a licensee is required by this section to deliver an annual privacy notice, the licensee shall deliver it according to §9921.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:3052, 22:3054 and Gramm-Leach-Bliley Act, Public Law 106-102 – Nov. 12, 1999).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:

§9915. Information to be Included in Privacy Notices

A. General Rule. The initial, annual and revised privacy notices that a licensee provides under §§9911, 9913 and 9919 shall include each of the following items of information, in addition to any other information the licensee wishes to provide, that applies to the licensee and to the consumers to whom the licensee sends its privacy notice:

1. the categories of nonpublic personal financial information that the licensee collects;

2. the categories of nonpublic personal financial information that the licensee discloses;

3. the categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal financial information, other than those parties to whom the licensee discloses information under §§9931 and 9933.

4. the categories of nonpublic personal financial information about the licensee's former customers that the licensee discloses and the categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal financial information about the licensee's former customers, other than those parties to whom the licensee discloses information under §§9931 and 9933;

5. if a licensee discloses nonpublic personal financial information to a nonaffiliated third party under §9929 (and no other exception in §§9931 and 9933 applies to that disclosure), a separate description of the categories of information the licensee discloses and the categories of third parties with whom the licensee has contracted;

6. an explanation of the consumer's right under §9923 to opt out of the disclosure of nonpublic personal financial information to nonaffiliated third parties, including the methods by which the consumer may exercise that right at that time;

7. any disclosures that the licensee makes under Section 603(d)(2)(A)(iii) of the federal Fair Credit Reporting Act (15 U.S.C. 1681a(d)(2)(A)(iii)) (that is, notices regarding the ability to opt out of disclosures of information among affiliates);

8. the licensee's policies and practices with respect to protecting the confidentiality and security of nonpublic personal information; and

9. any disclosure that the licensee makes under Subsection B of this section.

B. Description of parties subject to exceptions. If a licensee discloses nonpublic personal financial information as authorized under §§9931 and 9933, the licensee is not required to list those exceptions in the initial or annual

privacy notices required by §§9911 and 9913. When describing the categories of parties to whom disclosure is made, the licensee is required to state only that it makes disclosures to other affiliated or nonaffiliated third parties, as applicable, as permitted by law.

C. Examples

1. Categories of nonpublic personal financial information that the licensee collects. A licensee satisfies the requirement to categorize the nonpublic personal financial information it collects if the licensee categorizes it according to the source of the information, as applicable:

- a. information from the consumer;
- b. information about the consumer's transactions with the licensee or its affiliates;
- c. information about the consumer's transactions with nonaffiliated third parties; and
- d. information from a consumer reporting agency.

2. Categories of Nonpublic Personal Financial Information a Licensee Discloses

a. A licensee satisfies the requirement to categorize nonpublic personal financial information it discloses if the licensee categorizes the information according to source, as described in Subsection C.1 of this section, as applicable, and provides a few examples to illustrate the types of information in each category. These might include:

- i. information from the consumer, including application information, such as assets and income and identifying information, such as name, address and social security number;
- ii. transaction information, such as information about balances, payment history and parties to the transaction; and
- iii. information from consumer reports, such as a consumer's creditworthiness and credit history.

b. A licensee does not adequately categorize the information that it discloses if the licensee uses only general terms, such as transaction information about the consumer.

c. If a licensee reserves the right to disclose all of the nonpublic personal financial information about consumers that it collects, the licensee may simply state that fact without describing the categories or examples of nonpublic personal information that the licensee discloses.

3. Categories of affiliates and nonaffiliated third parties to whom the licensee discloses.

a. A licensee satisfies the requirement to categorize the affiliates and nonaffiliated third parties to which the licensee discloses nonpublic personal financial information about consumers if the licensee identifies the types of businesses in which they engage.

b. Types of businesses may be described by general terms only if the licensee uses a few illustrative examples of significant lines of business. For example, a licensee may use the term financial products or services if it includes appropriate examples of significant lines of businesses, such as life insurer, automobile insurer, consumer banking or securities brokerage.

c. A licensee also may categorize the affiliates and nonaffiliated third parties to which it discloses nonpublic personal financial information about consumers using more detailed categories.

4. Disclosures under exception for service providers and joint marketers. If a licensee discloses nonpublic

personal financial information under the exception in §9929 to a nonaffiliated third party to market products or services that it offers alone or jointly with another financial institution, the licensee satisfies the disclosure requirement of Subsection A.5 of this section if it:

a. Lists the categories of nonpublic personal financial information it discloses, using the same categories and examples the licensee used to meet the requirements of Subsection A.2. of this section, as applicable; and

b. States whether the third party is:

- i. A service provider that performs marketing services on the licensee's behalf or on behalf of the licensee and another financial institution; or
- ii. A financial institution with whom the licensee has a joint marketing agreement.

5. Simplified notices. If a licensee does not disclose, and does not wish to reserve the right to disclose, nonpublic personal financial information about customers or former customers to affiliates or nonaffiliated third parties except as authorized under §§9931 and 9933, the licensee may simply state that fact, in addition to the information it shall provide under Subsections A.1, A.8, A.9, and Subsection B of this section.

6. Confidentiality and security. A licensee describes its policies and practices with respect to protecting the confidentiality and security of nonpublic personal financial information if it does both of the following:

a. Describes in general terms who is authorized to have access to the information; and

b. States whether the licensee has security practices and procedures in place to ensure the confidentiality of the information in accordance with the licensee's policy. The licensee is not required to describe technical information about the safeguards it uses.

D. Short-Form Initial Notice With Opt Out Notice for Non-Customers

1. A licensee may satisfy the initial notice requirements in §§9911A.2 and 9917C for a consumer who is not a customer by providing a short-form initial notice at the same time as the licensee delivers an opt out notice as required in §9917.

2. A short-form initial notice shall:

- a. be clear and conspicuous;
- b. state that the licensee's privacy notice is available upon request; and
- c. explain a reasonable means by which the consumer may obtain that notice.

3. The licensee shall deliver its short-form initial notice according to §9921. The licensee is not required to deliver its privacy notice with its short-form initial notice. The licensee instead may simply provide the consumer a reasonable means to obtain its privacy notice. If a consumer who receives the licensee's short-form notice requests the licensee's privacy notice, the licensee shall deliver its privacy notice according to §9921.

4. Examples of obtaining privacy notice. The licensee provides a reasonable means by which a consumer may obtain a copy of its privacy notice if the licensee:

- a. provides a toll-free telephone number that the consumer may call to request the notice; or
- b. for a consumer who conducts business in person at the licensee's office, maintains copies of the notice on

hand that the licensee provides to the consumer immediately upon request.

E. Future disclosures. The licensee's notice may include:

1. Categories of nonpublic personal financial information that the licensee reserves the right to disclose in the future, but does not currently disclose; and

2. Categories of affiliates or nonaffiliated third parties to whom the licensee reserves the right in the future to disclose, but to whom the licensee does not currently disclose, nonpublic personal financial information.

F. Sample clauses. Sample clauses illustrating some of the notice content required by this section are included in Appendix A of this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:3052, 22:3054 and Gramm-Leach-Bliley Act, Public Law 106-102 – Nov. 12, 1999).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:

§9917. Form of Opt Out Notice to Consumers and Opt Out Methods

A.1. Form of Opt Out Notice. If a licensee is required to provide an opt out notice under §9923, it shall provide a clear and conspicuous notice to each of its consumers that accurately explains the right to opt out under that section. The notice shall state:

a. that the licensee discloses or reserves the right to disclose nonpublic personal financial information about its consumer to a nonaffiliated third party;

b. that the consumer has the right to opt out of that disclosure; and

c. a reasonable means by which the consumer may exercise the opt out right.

2. Examples.

a. Adequate Opt Out Notice. A licensee provides adequate notice that the consumer can opt out of the disclosure of nonpublic personal financial information to a nonaffiliated third party if the licensee:

i. identifies all of the categories of nonpublic personal financial information that it discloses or reserves the right to disclose, and all of the categories of nonaffiliated third parties to which the licensee discloses the information, as described in §9915A.2 and 3, and states that the consumer can opt out of the disclosure of that information; and

ii. identifies the insurance products or services that the consumer obtains from the licensee, either singly or jointly, to which the opt out direction would apply.

b. Reasonable Opt Out Means. A licensee provides a reasonable means to exercise an opt out right if it:

i. designates check-off boxes in a prominent position on the relevant forms with the opt out notice;

ii. includes a reply form together with the opt out notice;

iii. provides an electronic means to opt out, such as a form that can be sent via electronic mail or a process at the licensee's web site, if the consumer agrees to the electronic delivery of information; or

iv. provides a toll-free telephone number that consumers may call to opt out.

c. Unreasonable opt out means. A licensee does not provide a reasonable means of opting out if:

i. the only means of opting out is for the consumer to write his or her own letter to exercise that opt out right; or

ii. the only means of opting out as described in any notice subsequent to the initial notice is to use a check-off box that the licensee provided with the initial notice but did not include with the subsequent notice.

d. Specific opt out means. A licensee may require each consumer to opt out through a specific means, as long as that means is reasonable for that consumer.

B. Same Form as Initial Notice Permitted. A licensee may provide the opt out notice together with or on the same written or electronic form as the initial notice the licensee provides in accordance with §9911.

C. Initial notice required when opt out notice delivered subsequent to initial notice. If a licensee provides the opt out notice later than required for the initial notice in accordance with §9911, the licensee shall also include a copy of the initial notice with the opt out notice in writing or, if the consumer agrees, electronically.

D. Joint Relationships

1. If two or more consumers jointly obtain an insurance product or service from a licensee, the licensee may provide a single opt out notice. The licensee's opt out notice shall explain how the licensee will treat an opt out direction by a joint consumer (as explained in Paragraph (5) of this subsection).

2. Any of the joint consumers may exercise the right to opt out. The licensee may either:

a. treat an opt out direction by a joint consumer as applying to all of the associated joint consumers; or

b. permit each joint consumer to opt out separately.

3. If a licensee permits each joint consumer to opt out separately, the licensee shall permit one of the joint consumers to opt out on behalf of all of the joint consumers.

4. A licensee may not require all joint consumers to opt out before it implements any opt out direction.

5. Example. If John and Mary are both named policyholders on a homeowner's insurance policy issued by a licensee and the licensee sends policy statements to John's address, the licensee may do any of the following, but it shall explain in its opt out notice which opt out policy the licensee will follow:

a. send a single opt out notice to John's address, but the licensee shall accept an opt out direction from either John or Mary;

b. treat an opt out direction by either John or Mary as applying to the entire policy. If the licensee does so and John opts out, the licensee may not require Mary to opt out as well before implementing John's opt out direction;

c. permit John and Mary to make different opt out directions. If the licensee does so:

i. it shall permit John and Mary to opt out for each other;

ii. if both opt out, the licensee shall permit both of them to notify it in a single response (such as on a form or through a telephone call); and

iii. if John opts out and Mary does not, the licensee may only disclose nonpublic personal financial information about Mary, but not about John and not about John and Mary jointly.

E. Time to Comply with Opt Out. A licensee shall comply with a consumer's opt out direction as soon as reasonably practicable after the licensee receives it.

F. Continuing Right to Opt Out. A consumer may exercise the right to opt out at any time.

G. Duration of consumer's opt out direction.

1. A consumer's direction to opt out under this section is effective until the consumer revokes it in writing or, if the consumer agrees, electronically.

2. When a customer relationship terminates, the customer's opt out direction continues to apply to the nonpublic personal financial information that the licensee collected during or related to that relationship. If the individual subsequently establishes a new customer relationship with the licensee, the opt out direction that applied to the former relationship does not apply to the new relationship.

H. Delivery. When a licensee is required to deliver an opt out notice by this section, the licensee shall deliver it according to §9921.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:3052, 22:3054 and Gramm-Leach-Bliley Act, Public Law 106-102 – Nov. 12, 1999).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:

§9919. Revised Privacy Notices

A. General Rule. Except as otherwise authorized in this regulation, a licensee shall not, directly or through an affiliate, disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party other than as described in the initial notice that the licensee provided to that consumer under §9911, unless:

1. the licensee has provided to the consumer a clear and conspicuous revised notice that accurately describes its policies and practices;

2. the licensee has provided to the consumer a new opt out notice;

3. the licensee has given the consumer a reasonable opportunity, before the licensee discloses the information to the nonaffiliated third party, to opt out of the disclosure; and

4. the consumer does not opt out.

B. Examples

1. Except as otherwise permitted by §§9929, 9931, and 9933, a licensee shall provide a revised notice before it:

a. discloses a new category of nonpublic personal financial information to any nonaffiliated third party;

b. discloses nonpublic personal financial information to a new category of nonaffiliated third party; or

c. discloses nonpublic personal financial information about a former customer to a nonaffiliated third party, if that former customer has not had the opportunity to exercise an opt out right regarding that disclosure.

2. A revised notice is not required if the licensee discloses nonpublic personal financial information to a new nonaffiliated third party that the licensee adequately described in its prior notice.

C. Delivery. When a licensee is required to deliver a revised privacy notice by this section, the licensee shall deliver it according to §9921.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:3052, 22:3054 and Gramm-Leach-Bliley Act, Public Law 106-102 – Nov. 12, 1999).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:

§9921. Delivery

A. How to Provide Notices. A licensee shall provide any notices that this regulation requires so that each consumer can reasonably be expected to receive actual notice in writing or, if the consumer agrees, electronically.

B.1. Examples of reasonable expectation of actual notice. A licensee may reasonably expect that a consumer will receive actual notice if the licensee:

a. hand-delivers a printed copy of the notice to the consumer;

b. mails a printed copy of the notice to the last known address of the consumer separately, or in a policy, billing or other written communication;

c. for a consumer who conducts transactions electronically, posts the notice on the electronic site and requires the consumer to acknowledge receipt of the notice as a necessary step to obtaining a particular insurance product or service;

d. for an isolated transaction with a consumer, such as the licensee providing an insurance quote or selling the consumer travel insurance, posts the notice and requires the consumer to acknowledge receipt of the notice as a necessary step to obtaining the particular insurance product or service.

2. Examples of unreasonable expectation of actual notice. A licensee may not, however, reasonably expect that a consumer will receive actual notice of its privacy policies and practices if it:

a. only posts a sign in its office or generally publishes advertisements of its privacy policies and practices; or

b. sends the notice via electronic mail to a consumer who does not obtain an insurance product or service from the licensee electronically.

C. Annual Notices Only. A licensee may reasonably expect that a customer will receive actual notice of the licensee's annual privacy notice if:

1. the customer uses the licensee's web site to access insurance products and services electronically and agrees to receive notices at the web site and the licensee posts its current privacy notice continuously in a clear and conspicuous manner on the web site; or

2. the customer has requested that the licensee refrain from sending any information regarding the customer relationship, and the licensee's current privacy notice remains available to the customer upon request.

D. Oral Description of Notice Insufficient. A licensee may not provide any notice required by this regulation solely by orally explaining the notice, either in person or over the telephone.

E. Retention or accessibility of notices for customers.

1. For customers only, a licensee shall provide the initial notice required by §9911A(1), the annual notice required by §9913A, and the revised notice required by §9919 so that the customer can retain them or obtain them later in writing or, if the customer agrees, electronically.

2. Examples of Retention or Accessibility. A licensee provides a privacy notice to the customer so that the customer can retain it or obtain it later if the licensee:

a. hand-delivers a printed copy of the notice to the customer;

b. mails a printed copy of the notice to the last known address of the customer; or

c. Makes its current privacy notice available on a web site (or a link to another web site) for the customer who obtains an insurance product or service electronically and agrees to receive the notice at the web site.

F. Joint Notice with Other Financial Institutions. A licensee may provide a joint notice from the licensee and one or more of its affiliates or other financial institutions, as identified in the notice, as long as the notice is accurate with respect to the licensee and the other institutions. A licensee also may provide a notice on behalf of another financial institution.

G. Joint relationships. If two or more consumers jointly obtain an insurance product or service from a licensee, the licensee may satisfy the initial, annual and revised notice requirements of §§9911, 9913 and 9919, respectively, by providing one notice to those consumers jointly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:3052, 22:3054 and Gramm-Leach-Bliley Act, Public Law 106-102 – Nov. 12, 1999).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:

Subchapter C. Limits on Disclosures of Financial Information

§9923. Limits on Disclosure of Nonpublic Personal Financial Information to Nonaffiliated Third Parties

A.1. Conditions for Disclosure. Except as otherwise authorized in this regulation, a licensee may not, directly or through any affiliate, disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party unless:

- a. the licensee has provided to the consumer an initial notice as required under §9911;
- b. the licensee has provided to the consumer an opt out notice as required in §9917;
- c. the licensee has given the consumer a reasonable opportunity, before it discloses the information to the nonaffiliated third party, to opt out of the disclosure; and
- d. the consumer does not opt out.

2. Opt Out Definition. Opt out means a direction by the consumer that the licensee not disclose nonpublic personal financial information about that consumer to a nonaffiliated third party, other than as permitted by §§9929, 9931 and 9933.

3. Examples of Reasonable Opportunity to Opt Out. A licensee provides a consumer with a reasonable opportunity to opt out if:

- a. by mail. The licensee mails the notices required in Paragraph 1 of this subsection to the consumer and allows the consumer to opt out by mailing a form, calling a toll-free telephone number or any other reasonable means within 30 days from the date the licensee mailed the notices;
- b. by electronic means. A customer opens an on-line account with a licensee and agrees to receive the notices required in Paragraph 1 of this subsection electronically, and the licensee allows the customer to opt out by any reasonable means within 30 days after the date that the customer acknowledges receipt of the notices in conjunction with opening the account;
- c. isolated transaction with consumer. For an isolated transaction such as providing the consumer with an

insurance quote, a licensee provides the consumer with a reasonable opportunity to opt out if the licensee provides the notices required in Paragraph 1 of this subsection at the time of the transaction and requests that the consumer decide, as a necessary part of the transaction, whether to opt out before completing the transaction.

B. Application of opt out to all consumers and all nonpublic personal financial information.

1. A licensee shall comply with this section, regardless of whether the licensee and the consumer have established a customer relationship.

2. Unless a licensee complies with this section, the licensee may not, directly or through any affiliate, disclose any nonpublic personal financial information about a consumer that the licensee has collected, regardless of whether the licensee collected it before or after receiving the direction to opt out from the consumer.

C. Partial opt out. A licensee may allow a consumer to select certain nonpublic personal financial information or certain nonaffiliated third parties with respect to which the consumer wishes to opt out.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:3052, 22:3054 and Gramm-Leach-Bliley Act, Public Law 106-102 – Nov. 12, 1999).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:

§925. Limits on Re-Disclosure and Reuse of Nonpublic Personal Financial Information

A.1. Information the licensee receives under an exception. If a licensee receives nonpublic personal financial information from a nonaffiliated financial institution under an exception in §§9931 or 9933 of this regulation, the licensee's disclosure and use of that information is limited as follows:

- a. the licensee may disclose the information to the affiliates of the financial institution from which the licensee received the information;
- b. the licensee may disclose the information to its affiliates, but the licensee's affiliates may, in turn, disclose and use the information only to the extent that the licensee may disclose and use the information; and
- c. the licensee may disclose and use the information pursuant to an exception in §§9931 or 9933 of this regulation, in the ordinary course of business to carry out the activity covered by the exception under which the licensee received the information.

2. Example. If a licensee receives information from a nonaffiliated financial institution for claims settlement purposes, the licensee may disclose the information for fraud prevention, or in response to a properly authorized subpoena. The licensee may not disclose that information to a third party for marketing purposes or use that information for its own marketing purposes.

B.1. Information a licensee receives outside of an exception. If a licensee receives nonpublic personal financial information from a nonaffiliated financial institution other than under an exception in §§9931 or 9933 of this regulation, the licensee may disclose the information only:

- a. to the affiliates of the financial institution from which the licensee received the information;
- b. to its affiliates, but its affiliates may, in turn, disclose the information only to the extent that the licensee may disclose the information; and

c. to any other person, if the disclosure would be lawful if made directly to that person by the financial institution from which the licensee received the information.

2. Example. If a licensee obtains a customer list from a nonaffiliated financial institution outside of the exceptions in §§9931 or 9933:

a. the licensee may use that list for its own purposes; and

b. the licensee may disclose that list to another nonaffiliated third party only if the financial institution from which the licensee purchased the list could have lawfully disclosed the list to that third party. That is, the licensee may disclose the list in accordance with the privacy policy of the financial institution from which the licensee received the list, as limited by the opt out direction of each consumer whose nonpublic personal financial information the licensee intends to disclose, and the licensee may disclose the list in accordance with an exception in §§9931 or 9933, such as to the licensee's attorneys or accountants.

C. Information a licensee discloses under an exception. If a licensee discloses nonpublic personal financial information to a nonaffiliated third party under an exception in §§9931 or 9933 of this regulation, the third party may disclose and use that information only as follows:

1. the third party may disclose the information to the licensee's affiliates;

2. the third party may disclose the information to its affiliates, but its affiliates may, in turn, disclose and use the information only to the extent that the third party may disclose and use the information; and

3. the third party may disclose and use the information pursuant to an exception in §§9931 or 9933 in the ordinary course of business to carry out the activity covered by the exception under which it received the information.

D. Information a licensee discloses outside of an exception. If a licensee discloses nonpublic personal financial information to a nonaffiliated third party other than under an exception in §§9931 or 9933 of this regulation, the third party may disclose the information only:

1. to the licensee's affiliates;

2. to the third party's affiliates, but the third party's affiliates, in turn, may disclose the information only to the extent the third party can disclose the information; and

3. to any other person, if the disclosure would be lawful if the licensee made it directly to that person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:3052, 22:3054 and Gramm-Leach-Bliley Act, Public Law 106-102 – Nov. 12, 1999).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:

§9927. Limits on Sharing Account Number Information for Marketing Purposes

A. General prohibition on disclosure of account numbers. A licensee shall not, directly or through an affiliate, disclose, other than to a consumer reporting agency, a policy number or similar form of access number or access code for a consumer's policy or transaction account to any nonaffiliated third party for use in telemarketing, direct mail marketing or other marketing through electronic mail to the consumer.

B. Exceptions. Subsection A of this section does not apply if a licensee discloses a policy number or similar form of access number or access code:

1. to the licensee's service provider solely in order to perform marketing for the licensee's own products or services, as long as the service provider is not authorized to directly initiate charges to the account;

2. to a licensee who is a producer solely in order to perform marketing for the licensee's own products or services; or

3. to a participant in an affinity or similar program where the participants in the program are identified to the customer when the customer enters into the program.

C. Examples

1. Policy Number. A policy number, or similar form of access number or access code, does not include a number or code in an encrypted form, as long as the licensee does not provide the recipient with a means to decode the number or code.

2. Policy or Transaction Account. For the purposes of this section, a policy or transaction account is an account other than a deposit account or a credit card account. A policy or transaction account does not include an account to which third parties cannot initiate charges.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:3052, 22:3054 and Gramm-Leach-Bliley Act, Public Law 106-102 – Nov. 12, 1999).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:

Subchapter D. Exceptions to Limits on Disclosures of Financial Information

§9929. Exception to Opt Out Requirements for Disclosure of Nonpublic Personal Financial Information for Service Providers and Joint Marketing

A. General Rule

1. The opt out requirements in §§9917 and 9923 do not apply when a licensee provides nonpublic personal financial information to a nonaffiliated third party to perform services for the licensee or functions on the licensee's behalf, if the licensee:

a. provides the initial notice in accordance with §9911; and

b. enters into a contractual agreement with the third party that prohibits the third party from disclosing or using the information other than to carry out the purposes for which the licensee disclosed the information, including use under an exception in §§9931 or 9933 in the ordinary course of business to carry out those purposes.

2. Example. If a licensee discloses nonpublic personal financial information under this section to a financial institution with which the licensee performs joint marketing, the licensee's contractual agreement with that institution meets the requirements of Paragraph 1.b of this subsection if it prohibits the institution from disclosing or using the nonpublic personal financial information except as necessary to carry out the joint marketing or under an exception in §9931 or §9933 in the ordinary course of business to carry out that joint marketing.

B. Service may include joint marketing. The services a nonaffiliated third party performs for a licensee under Subsection A of this section may include marketing of the licensee's own products or services or marketing of financial products or services offered pursuant to joint agreements between the licensee and one or more financial institutions.

C. Definition of Joint Agreement. For purposes of this section, *joint agreement* means a written contract pursuant to which a licensee and one or more financial institutions jointly offer, endorse or sponsor a financial product or service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:3052, 22:3054 and Gramm-Leach-Bliley Act, Public Law 106-102 – Nov. 12, 1999).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:

§9931. Exceptions to Notice and Opt Out Requirements for Disclosure of Nonpublic Personal Financial Information for Processing and Servicing Transactions

A. Exceptions for Processing Transactions at Consumer's Request. The requirements for initial notice in §9911A.2, the opt out in §§9917 and 9923, and service providers and joint marketing in §9929 do not apply if the licensee discloses nonpublic personal financial information as necessary to effect, administer or enforce a transaction that a consumer requests or authorizes, or in connection with:

1. servicing or processing an insurance product or service that a consumer requests or authorizes;
2. maintaining or servicing the consumer's account with a licensee, or with another entity as part of a private label credit card program or other extension of credit on behalf of such entity;
3. a proposed or actual securitization, secondary market sale (including sales of servicing rights) or similar transaction related to a transaction of the consumer; or
4. reinsurance or stop loss or excess loss insurance.

B. *Necessary to Effect, Administer or Enforce a Transaction* that the disclosure is:

1. required, or is one of the lawful or appropriate methods, to enforce the licensee's rights or the rights of other persons engaged in carrying out the financial transaction or providing the product or service; or
2. required, or is a usual, appropriate or acceptable method:
 - a. to carry out the transaction or the product or service business of which the transaction is a part, and record, service or maintain the consumer's account in the ordinary course of providing the insurance product or service;
 - b. to administer or service benefits or claims relating to the transaction or the product or service business of which it is a part;
 - c. to provide a confirmation, statement or other record of the transaction, or information on the status or value of the insurance product or service to the consumer or the consumer's agent or broker;
 - d. to accrue or recognize incentives or bonuses associated with the transaction that are provided by a licensee or any other party;
 - e. to underwrite insurance at the consumer's request or for any of the following purposes as they relate to a consumer's insurance: account administration, reporting, investigating or preventing fraud or material misrepresentation, processing premium payments, processing insurance claims, administering insurance benefits (including utilization review activities),

participating in research projects or as otherwise required or specifically permitted by federal or state law; or

f. In connection with:

- i. authorization, settlement, billing, processing, clearing, transferring, reconciling or collection of amounts charged, debited or otherwise paid using a debit, credit or other payment card, check or account number, or by other payment means;
- ii. the transfer of receivables, accounts or interests therein; or
- iii. the audit of debit, credit or other payment information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:3052, 22:3054 and Gramm-Leach-Bliley Act, Public Law 106-102 – Nov. 12, 1999).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:

§9933. Other Exceptions to Notice and Opt Out Requirements for Disclosure of Nonpublic Personal Financial Information

A. Exceptions to opt out requirements. The requirements for initial notice to consumers in §9911A.2, the opt out in §§9917 and 9923, and service providers and joint marketing in §9929 do not apply when a licensee discloses nonpublic personal financial information:

1. with the consent or at the direction of the consumer, provided that the consumer has not revoked the consent or direction;
 - 2.a. to protect the confidentiality or security of a licensee's records pertaining to the consumer, service, product or transaction;
 - b. to protect against or prevent actual or potential fraud or unauthorized transactions;
 - c. for required institutional risk control or for resolving consumer disputes or inquiries;
 - d. to persons holding a legal or beneficial interest relating to the consumer; or
 - e. to persons acting in a fiduciary or representative capacity on behalf of the consumer;
3. to provide information to the commissioner or insurance, insurance rate advisory organizations, guaranty funds or agencies, agencies that are rating a licensee, persons that are assessing the licensee's compliance with industry standards, and the licensee's attorneys, accountants and auditors;
4. to the extent specifically permitted or required under other provisions of law and in accordance with the federal Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.), to law enforcement agencies (including the Federal Reserve Board, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, Office of Thrift Supervision, National Credit Union Administration, the Securities and Exchange Commission, the Secretary of the Treasury, with respect to 31 U.S.C. Chapter 53, Subchapter II (Records and Reports on Monetary Instruments and Transactions) and 12 U.S.C. Chapter 21 (Financial Record keeping), a state insurance authority, and the Federal Trade Commission), self-regulatory organizations or for an investigation on a matter related to public safety;
 - 5.a. to a consumer reporting agency in accordance with the federal Fair Credit Reporting Act (15 U.S.C. 1681 et seq.); or

b. from a consumer report reported by a consumer reporting agency;

6. actual sale, merger, transfer or exchange of all or a portion of a business or operating unit if the disclosure of nonpublic personal financial information concerns solely consumers of the business or unit;

7.a. To comply with federal, state or local laws, rules and other applicable legal requirements;

b. To comply with a properly authorized civil, criminal or regulatory investigation, or subpoena or summons by federal, state or local authorities;

c. To respond to judicial process or government regulatory authorities having jurisdiction over a licensee for examination, compliance or other purposes as authorized by law; or

8. for purposes related to the replacement of a group benefit plan, a group health plan, a group welfare plan or a workers' compensation plan.

9. for Purposes related to:

a. an order of rehabilitation or liquidation pursuant to R.S. 22:731 et seq.;

b. any other provision of law which authorizes the Commissioner of Insurance to take over, rehabilitate, liquidate, or wind up the affairs of a licensee.

B. Example of Revocation of Consent. A consumer may revoke consent by subsequently exercising the right to opt out of future disclosures of nonpublic personal information as permitted under §9917F.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:3052, 22:3054 22:731, et seq. and Gramm-Leach-Bliley Act, Public Law 106-102 – Nov. 12, 1999).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:

Subchapter E. Additional Provisions

§9945. Protection of Existing Requirements

A. Nothing in this regulation shall be construed to modify, limit or supersede the operation of the federal Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) or of Louisiana Revised Statutes Sections 22:1474, 23:1200.3 or 22:3063, and no inference shall be drawn on the basis of the provisions of this regulation regarding whether information is transaction or experience information under Section 603 of the federal Fair Credit Reporting Act..

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:1474, 22:3052, 22:3054, 22:3063, 23:1200.3, Gramm-Leach-Bliley Act, Public Law 106-102 – Nov. 12, 1999, 15 U.S.C. 1681, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:

§9947. Nondiscrimination

A. A licensee shall not unfairly discriminate against any consumer or customer because that consumer or customer has opted out from the disclosure of his or her nonpublic personal financial information pursuant to the provisions of this regulation.

B. A licensee shall not unfairly discriminate against a consumer or customer because that consumer or customer has not granted authorization for the disclosure of his or her nonpublic personal health information pursuant to the provisions of this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:1214, 22:2020; 22:3052; 22:3054, 22:3063.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:

§9949. Violations and Penalties

A. Any failure to comply with this regulation shall be considered a violation of R.S. 22:1214, et seq.

B. Violations of this regulation shall subject the violators to penalties as provided in R.S. 22:1217, 22:1217.1, and any other applicable provisions of law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:1214, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:

§9951. Severability

A. If any section or portion of a section of this regulation or its applicability to any person or circumstance is held invalid by a court, the remainder of the regulation or the applicability of the provision to other persons or circumstances shall not be affected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:

§9953. Effective Date

A. Effective Date. This regulation is effective November 13, 2000. In order to provide sufficient time for licensees to establish policies and systems to comply with the requirements of this regulation, the commissioner has extended the time for compliance with this regulation until July 1, 2001.

B.1. Notice Requirement for Consumers who are the Licensee's Customers on the Compliance Date. By July 1, 2001, a licensee shall provide an initial notice, as required by Section 5, to consumers who are the licensee's customers on July 1, 2001.

2. Example. A licensee provides an initial notice to consumers who are its customers on July 1, 2001, if, by that date, the licensee has established a system for providing an initial notice to all new customers and has mailed the initial notice to all the licensee's existing customers.

C. Two-year grandfathering of service agreements. Until July 1, 2002, a contract that a licensee has entered into with a nonaffiliated third party to perform services for the licensee or functions on the licensee's behalf satisfies the provisions of §9929A.1.b of this regulation, even if the contract does not include a requirement that the third party maintain the confidentiality of nonpublic personal information, as long as the licensee entered into the agreement on or before July 1, 2000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:

Appendix AC Sample Clauses

Licensees, including a group of financial holding company affiliates that use a common privacy notice, may use the following sample clauses, if the clause is accurate for each institution that uses the notice. (Note that disclosure of certain information, such as assets, income and information from a consumer reporting agency, may give rise to obligations under the federal Fair Credit Reporting Act, such as a requirement to permit a consumer to opt out of disclosures to affiliates or designation as a consumer reporting agency if disclosures are made to nonaffiliated third parties.)

A-1–Categories of information a licensee collects (all institutions)

A licensee may use this clause, as applicable, to meet the requirement of §9915A.1 to describe the categories of nonpublic personal information the licensee collects.

Sample Clause A-1:

We collect nonpublic personal information about you from the following sources:

- Information we receive from you on applications or other forms;
- Information about your transactions with us, our affiliates or others; and
- Information we receive from a consumer reporting agency.

A-2–Categories of information a licensee discloses (institutions that disclose outside of the exceptions)

A licensee may use one of these clauses, as applicable, to meet the requirement of §9915A.2 to describe the categories of nonpublic personal information the licensee discloses. The licensee may use these clauses if it discloses nonpublic personal information other than as permitted by the exceptions in §§9929, 9931 and 9933.

Sample Clause A -2, Alternative 1:

We may disclose the following kinds of nonpublic personal information about you:

- Information we receive from you on applications or other forms, such as [provide illustrative examples, such as “your name, address, social security number, assets, income, and beneficiaries”];
- Information about your transactions with us, our affiliates or others, such as [provide illustrative examples, such as “your policy coverage, premiums, and payment history”]; and
- Information we receive from a consumer reporting agency, such as [provide illustrative examples, such as “your creditworthiness and credit history”].

Sample Clause A -2, Alternative 2:

We may disclose all of the information that we collect, as described [describe location in the notice, such as “above” or “below”].

A-3–Categories of information a licensee discloses and parties to whom the licensee discloses (institutions that do not disclose outside of the exceptions)

A licensee may use this clause, as applicable, to meet the requirements of §§9915A(2), (3), and (4) to describe the categories of nonpublic personal information about customers and former customers that the licensee discloses and the categories of affiliates and nonaffiliated third parties to whom the licensee discloses. A licensee may use this clause if the licensee does not disclose nonpublic personal information to any party, other than as permitted by the exceptions in §§9931 and 9933.

Sample Clause A -3:

We do not disclose any nonpublic personal information about our customers or former customers to anyone, except as permitted by law.

A-4–Categories of parties to whom a licensee discloses (institutions that disclose outside of the exceptions)

A licensee may use this clause, as applicable, to meet the requirement of §9915A.3 to describe the categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal information. This clause may

be used if the licensee discloses nonpublic personal information other than as permitted by the exceptions in §§9929, 9931 and 9933, as well as when permitted by the exceptions in §§9931 and 9933.

Sample Clause A -4:

We may disclose nonpublic personal information about you to the following types of third parties:

- Financial service providers, such as [provide illustrative examples, such as “life insurers, automobile insurers, mortgage bankers, securities broker-dealers, and insurance agents”];
- Non-financial companies, such as [provide illustrative examples, such as “retailers, direct marketers, airlines, and publishers”]; and
- Others, such as [provide illustrative examples, such as “non-profit organizations”].

We may also disclose nonpublic personal information about you to nonaffiliated third parties as permitted by law.

A-5–Service provider/joint marketing exception

A licensee may use one of these clauses, as applicable, to meet the requirements of §9915A(5) related to the exception for service providers and joint marketers in §9929. If a licensee discloses nonpublic personal information under this exception, the licensee shall describe the categories of nonpublic personal information the licensee discloses and the categories of third parties with which the licensee has contracted.

Sample Clause A -5, Alternative 1:

We may disclose the following information to companies that perform marketing services on our behalf or to other financial institutions with which we have joint marketing agreements:

- Information we receive from you on applications or other forms, such as [provide illustrative examples, such as “your name, address, social security number, assets, income, and beneficiaries”];
- Information about your transactions with us, our affiliates or others, such as [provide illustrative examples, such as “your policy coverage, premium, and payment history”]; and
- Information we receive from a consumer reporting agency, such as [provide illustrative examples, such as “your creditworthiness and credit history”].

Sample Clause A -5, Alternative 2:

We may disclose all of the information we collect, as described [describe location in the notice, such as “above” or “below”] to companies that perform marketing services on our behalf or to other financial institutions with whom we have joint marketing agreements.

A-6–Explanation of opt out right (institutions that disclose outside of the exceptions)

A licensee may use this clause, as applicable, to meet the requirement of §9915A(6) to provide an explanation of the consumer’s right to opt out of the disclosure of nonpublic personal information to nonaffiliated third parties, including the method(s) by which the consumer may exercise that right. The licensee may use this clause if the licensee discloses nonpublic personal information other than as permitted by the exceptions in §§9929, 9931 and 9933.

Sample Clause A -6:

If you prefer that we not disclose nonpublic personal information about you to nonaffiliated third parties, you may

opt out of those disclosures, that is, you may direct us not to make those disclosures (other than disclosures permitted by law). If you wish to opt out of disclosures to nonaffiliated third parties, you may [describe a reasonable means of opting out, such as "call the following toll-free number: (insert number)].

A-7-Confidentiality and security (all institutions)

A licensee may use this clause, as applicable, to meet the requirement of §9915A(8) to describe its policies and practices with respect to protecting the confidentiality and security of nonpublic personal information.

Sample Clause A -7:

We restrict access to nonpublic personal information about you to [provide an appropriate description, such as "those employees who need to know that information to provide products or services to you"]. We maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

Inquiries concerning this regulation should be directed to Brenda S. Nation, Executive Counsel, P.O. Box 94214, Baton Rouge, LA 70804-9214; telephone: (225) 342-4674; fax (225) 342-1632.

J. Robert Wooley
Acting Commissioner

0012#088

DECLARATION OF EMERGENCY

**Department of Public Safety and Corrections
Corrections Services**

Disciplinary Rules and Procedures for Adult Inmates
(LAC 22:I.341-365)

In accordance with the provisions of R.S. 49:953, the Louisiana Department of Public Safety and Corrections (Department) hereby determines that adoption of an Emergency Rule repealing in their entirety LAC 22:I. 341-365, inclusive, and promulgating new LAC 22:I. 341-365 to the Disciplinary Rules and Procedures for Adult Inmates is necessary and that for the following reasons failure to adopt the Emergency Rule amendments will result in imminent peril to the public health, safety and welfare.

The Disciplinary Rules and Procedures for Adult Inmates were adopted by the Department and published in the Louisiana Register and became effective February 15, 1993, LAC 22:I.341, et seq. It is the responsibility of the Secretary of the Department to prescribe rules and regulations for the maintenance of good order and discipline in the facilities and institutions under the jurisdiction of the Department, which rules and regulations shall include procedures for dealing with violations thereof. R.S. 15:829. The Disciplinary Rules and Procedures for Adult Inmates provide for loss of good time by an adult inmate for violation of the rules and regulations. Historically, planned or committed misbehavior by inmates that posed a threat to the security of the institution, employees, inmates and/or visitors but did not fall under a specific disciplinary rule was subject to the same sanctions as a rule violation. Recently, however, the Louisiana Supreme Court in *Tony Giles v. Cain*, 1999-2328

(La. 6/2/00), 762 So.2d 1116, rehearing denied on the merits, 1999-2328 (La. 8/31/00), 766 So.2d 1269, affirmed the District Court ruling that forfeiture of good time for threat to security violations does harm to an inmate's due process rights since the inmate does not have sufficient notice of the charges against him. As a result, the Department is compelled to amend the Disciplinary Rules and Procedures for Adult Inmates to define those prohibited activities that constitute a threat to the security of the institution, employees, inmates and/or visitors.

The Department, to insure the maintenance of good order and discipline must have the authority to impose penalties for violations of the rules and procedures to the full extent of the law. Disciplinary hearings within the facilities and institutions of the Department are numerous and ongoing and decisions rendered by such facilities and institutions that may be contrary to the holding in *Giles* may be subject to legal challenge, which is detrimental to the good order and discipline of the Department. These legal challenges will result in the release of inmates from prison earlier than would otherwise be the case, resulting in potential risk to the public safety. The inability to adequately sanction inmates for misbehavior under the current rules will degrade the safety of the institutions and pose an additional threat to public safety.

For the foregoing reasons, the Louisiana Department of Public Safety and Corrections has determined that the adoption of the following Emergency Rule is necessary and hereby adopts this Emergency Rule effective December 8, 2000, in accordance with R.S. 49:953(B). This Emergency Rule shall be in effect for the maximum period allowed under the Administrative Procedures Act or until adoption of the rule, whichever occurs first.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT**

Part I. Corrections

**Subchapter B. Disciplinary Rules and Procedures for
Adult Inmates**

§341. Preface

A. This book of disciplinary rules and procedures constitutes clear and proper notice of same for each adult inmate sentenced to the Department of Public Safety and Corrections.

B. This book rescinds and supersedes the "Disciplinary Rules and Procedures for Adult Inmates" dated February 15, 1993 (as amended) and appeal decisions rendered pursuant to those rules and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, *Wolff v. McDonnell*, 94 S.Ct. 2963 (1974), *Ralph v. Dees*, C.A. 71-94, USDC (Md. La.) and *Sandin v. Conner*, 115 S.Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:

§343. Forward

A. The "Disciplinary Rules and Procedures for Adult Inmates" are established to help provide structure and organization for the prisons, and a framework within which the inmate population can expect the disciplinary system to function. They must be followed at all adult and contract facilities.

B. These rules, regulations, and procedures may only be changed by the Secretary of the Department of Public Safety and Corrections.

C. An inmate is only entitled to a due process hearing or other application of these procedures when loss of good time is involved. Otherwise, utilization of these procedures does not constitute the granting of any enforceable right or privilege to any inmate.

D. There are certain classification or other actions which may be taken that effect an inmate's custody status, job classification, housing assignment, institutional assignment and/or ability to participate in institutional programs or activities for which an inmate may expect routine change during the course of his incarceration. Such changes may result from classification decision making activity to promote institutional security or other legitimate institutional goals, or the imposition of other disciplinary penalties. Such changes may not be disciplinary penalties in and of themselves. In addition, any similar changes which result from the action of other Department Regulations and institutional policies are not considered penalties in the context of the disciplinary process.

E. In the event of a genuine emergency, such as a serious disturbance disrupting normal operations or a natural disaster, the Secretary or his designee may suspend any and all disciplinary rules and procedures for the duration of the emergency. Full hearings must be held within a reasonable time after the end of the emergency for those inmates who were subject to loss of good time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, *Wolff v. McDonnell*, 94 S.Ct. 2963 (1974), *Ralph v. Dees*, C.A. 71-94, USDC (Md. La.) and *Sandin v. Conner*, 115 S.Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:

§345. Definitions

Administrative SegregationCa temporary holding area, preferably a cell, where inmates are held whose continued presence in the general population poses a threat to life, property, self, staff, other inmates, the security or orderly running of the institution, or who are the subject of an investigation. In addition, inmates who are pending transfer to another institution or pending assignment or re-assignment within an institution may be held in *Administrative Segregation*. (Refer to section on "Disciplinary ProceduresCA *Administrative Segregation Guidelines*.")

AppealCa request by an inmate for review of a disciplinary decision. (Refer to section on "Appeals.")

AttemptCwhen an inmate has an intent to violate these disciplinary rules, whether or not he actually does something toward violating the rule.

ClassificationCa process for determining the needs and requirements of those for whom confinement has been ordered and for assigning them to housing units, work assignments, and programs according to their needs and existing resources. Classification Board actions, even if resulting from an incident handled in the disciplinary process, are not disciplinary sanctions.

Confidential InformantCperson whose identity is not revealed to the accused inmate but who provides an employee(s) with information concerning misbehavior or planned misbehavior.

ConspiracyCtwo or more persons working in combination for the specific purpose of violating any disciplinary rule.

Counsel and Counsel SubstitutesCCounsel is an Attorney at Law of the inmate's choice who must be retained by the inmate. Counsel Substitutes are persons not admitted to the practice of law, but inmates who aid and assist, without cost, an accused inmate in the preparation and presentation of his defense and/or appeal. Counsel Substitutes are only those inmates appointed by the Warden, or his designee. (Refer to section on "Disciplinary Procedures - Counsel Substitutes.")

CustodyCthe type of housing and the level of supervision required for an inmate. Custody assignments will reflect public safety as the first priority, staff and inmate safety within the institution as the second priority, and then institutional or inmate need.

Disciplinary Detention/Extended LockdownCmaximum security area for confining inmates. (Refer to section on "Disciplinary Procedures - Disciplinary Detention/Extended Lockdown.")

Disciplinary Detention/IsolationCa punitive holding area where inmates are temporarily confined in a restricted situation after being so sentenced by the Disciplinary Board. (Refer to section on "Disciplinary Procedures - Disciplinary Detention/Isolation.")

Disciplinary ReportCa report on the approved form filed by an employee who has reason to believe that an inmate(s) has violated one or more disciplinary rules. Disciplinary Reports may be heard by the Disciplinary Officer or the Disciplinary Board.

HearingsCa fair and impartial review conducted by the Disciplinary Officer or the Disciplinary Board.

Investigation ReportCa report submitted for disposition to the Disciplinary Board detailing the facts uncovered in an investigation.

Maximum CustodyCassignment of an inmate to a cell based upon the need to protect the inmate, other inmates, the public, staff, or the institution. This includes *Administrative Segregation*, *Disciplinary Detention/Extended Lockdown* and *Working Cellblocks* and may include *Protective Custody/Extended Lockdown*. Movements inside the secure perimeter of a facility by maximum custody inmates are closely monitored by staff and may include the utilization of restraints in accordance with institutional policy. Movement outside of a secure perimeter is accomplished only under armed supervision or when appropriately restrained or otherwise secured.

Medium CustodyCgenerally, assignment of an inmate to a dormitory housing area. Movement outside of a secure perimeter is accomplished only under armed supervision or when appropriately restrained or otherwise secured. Institutional procedure governs internal movement controls.

Minimum CustodyCgenerally, assignment of an inmate to a dormitory housing area. Movement outside of a secure perimeter is usually authorized without armed supervision or restraint. Institutional procedure governs the level of staff supervision when outside the secure perimeter, as well as internal movement controls.

Posted PolicyCas used herein, applies to policy memorandums detailing what behavior is required or forbidden of inmates and generally reflects the individual needs of the facility--such as, but not limited to, count procedure, off-limits areas and ID Card policy. Posted

Policies must be distributed and posted in such a manner that inmates are placed on notice as to what behavior is required or forbidden, and the actions that may be taken should the policy be violated. (See Department Regulation No. C-01-006 "Institutional Policies/Procedures and Inmate Posted Policies.")

Protective Custody/Extended Lockdown A classification utilized when an inmate has a verifiable need for protection. (Refer to section on *Disciplinary Procedures* **C** *Protective Custody/Extended Lockdown*.)

Sanction A disciplinary penalty.

Security The physical construction characteristics of the facility in terms of perimeter security, building construction type, and internal movement controls.

Segregation A generic term used to encompass Administrative Segregation, Protective Custody, and Disciplinary Detention.

Working Cellblock A form of maximum custody distinguished by access to work and other programs consistent with security restrictions and institutional procedures.

Note: The pronouns "he" and "his" as used herein are for convenience only and are not intended to discriminate against female employees or inmates. Additionally, "employee" as used herein refers not only to an employee of the Department of Public Safety and Corrections, but also to any individual having the authority to exercise supervision over an inmate (such as, but not limited to, a teacher, an employee of a contractor, etc.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, *Wolff v. McDonnell*, 94 S.Ct. 2963 (1974), *Ralph v. Dees*, C.A. 71-94, USDC (Md. La.) and *Sandin v. Conner*, 115 S.Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:

§347. Disciplinary Procedures

A. **General Segregation Guidelines** **C** **Mental Health.** A mental health professional (as defined by the designated health care authority at the institution), must document a personal interview with any inmate who remains in Administrative Segregation, Protective Custody, or Disciplinary Detention for more than 30 consecutive days. A mental health assessment must be made at least every three months thereafter if confinement is continuous.

B. **Administrative Segregation Guidelines.** An inmate whose continued presence in the general population poses a threat to life, property, self, staff, other inmates, or to the security or orderly running of the institution, or who is the subject of an investigation, may (with the approval of the highest ranking supervisor on duty in the unit where the incident occurred or the shift supervisor), be placed in Administrative Segregation until his appearance before the Disciplinary Board or Classification Board. The supervisor, before the conclusion of his tour of duty, will review documentation for completeness, correctness, and investigate as needed to confirm the reasonableness of the allegation or circumstances prompting placement.

1. Inmates pending possible transfer to another facility, or pending assignment or re-assignment within an institution, may be held in Administrative Segregation. Inmates in Administrative Segregation pending such transfer will be entitled only to privileges allowed other inmates in Administrative Segregation.

2. Upon the request of an inmate or after review by appropriate institutional staff, an inmate may be placed in Administrative Segregation for his protection and/or the protection of others until the Disciplinary Officer/Disciplinary Board or Classification Board can review the circumstances and recommend appropriate action.

3. Time spent in Administrative Segregation must be credited against Disciplinary Detention/Isolation or Extra Duty sentences even when the sentence is suspended. Credit will not be given for time spent in Administrative Segregation on a request for protection or while awaiting transfer to another area.

4. Inmates in Administrative Segregation shall be allowed to receive all correspondence and to originate correspondence. Inmates in Administrative Segregation will be allowed visits; clean clothing on a scheduled basis; toothbrush and toothpaste; sufficient heat; light; ventilation; toilet facilities; and the same meals as other inmates. The status of inmates in Administrative Segregation should be reviewed by an appropriate review board at least every seven days for the first two months and every 30 days thereafter.

C. **Counsel Substitutes.** Behavior of Counsel Substitutes and Legal Aid Office workers must be above reproach. A job change is mandatory following conviction of a serious offense. Counsel Substitutes are not required to file appeals but should inform the inmate who wants to appeal of the proper way to file. They may be removed from their positions if the Warden or his designee believes it appropriate. No inmate (Counsel Substitute or not) can sell or trade for value legal services of any sort. Inmates who are not Counsel Substitutes may not provide services to other inmates without the approval of the Warden or his designee.

D. **Disciplinary Board.** A properly composed board will consist of two people **C** a duly authorized Chairman, and a duly authorized Member **C** each representing a different element (security, administration, or treatment.) The Chairman must be approved by the Secretary or his designee. The Member must be approved by the Warden or his designee. Decisions must be unanimous. If the decision is not unanimous, the case is automatically deferred for referral to a different Disciplinary Board. If the second decision is not unanimous, then a finding of Not Guilty is appropriate. Hearings shall be held within seven days of the date of the report, excluding weekends and holidays, for those inmates not placed in Administrative Segregation, unless the hearing is prevented by exceptional circumstances, unavoidable delays, or reasonable postponements. Reasons for all delays should be documented.

E. **Disciplinary Officer/Low Court Hearing.** A ranking security officer (Lieutenant or above) or any supervisory level employee from administration or treatment appointed by the Warden who conducts hearings of minor violations and who may impose only minor sanctions. Any Disciplinary Officer directly involved in the incident or who is biased for or against the accused cannot hear the case unless the accused waives recusal. Performance of a routine administrative duty does not necessarily constitute "direct involvement" or "bias." At these hearings, the accused inmate represents himself and is given full opportunity to speak in his own behalf. The presence of Counsel

Substitutes, witnesses, or the accusing employee is not permitted. These hearings are not taped. Hearings shall be held within seven days of the date of the report, excluding weekends and holidays, for those inmates not placed in Administrative Segregation, unless the hearing is prevented by exceptional circumstances, unavoidable delays, or reasonable postponements. Reasons for all delays should be documented. The Disciplinary Officer may also hear inmates who have signed written requests for protection and may recommend appropriate action.

F. Disciplinary Detention/Extended Lockdown

1. An indeterminate period of lockdown characterized by routine 90 day classification reviews to determine eligibility/suitability for release from this status. This type of segregation is used primarily after a Disciplinary Hearing for an inmate found guilty of violating one or more serious rules, or of being dangerous to himself or others, or of being a serious escape risk, or of posing a clear threat to the security of the facility. A Classification Board hearing is sufficient for an inmate who is initially classified as maximum custody.

2. Inmates in Disciplinary Detention/Extended Lockdown will be reviewed by an appropriate review board for possible release to a less restricted status approximately every 90 days.

G. Disciplinary Detention/Isolation

1. A determinate period of lockdown that is characterized by a limit of 10 consecutive days without a 24 hour break or no more than 20 days in a 30 day period. After 10 consecutive days in Disciplinary Detention/Isolation, the inmate must be released for a period of time not less than 24 hours. No inmate may be confined in Disciplinary Detention/Isolation except by action of the Disciplinary Board on the basis of a Disciplinary Report.

2. Inmates in Disciplinary Detention/Isolation shall be allowed to receive all correspondence and to originate correspondence. Inmates in Disciplinary Detention/Isolation will be allowed: visits; clean clothing on a scheduled basis; toothbrush and toothpaste; sufficient heat; light; ventilation; toilet facilities; and the same meals as other inmates.

H. Protective Custody/Extended Lockdown

1. Utilized for an inmate in need of protection. A Disciplinary Board or Classification Board hearing is not necessary when an inmate has signed a written request for protection and is transferred to Protective Custody/Extended Lockdown by the Disciplinary Officer/Disciplinary Board or Classification Board.

2. Inmates in Protective Custody/Extended Lockdown should be reviewed by an appropriate review board for possible release to a less restricted status at least every 7 days for the first 2 months and every 30 days thereafter.

I. Working Cellblock. An indeterminate period of assignment to a maximum custody status characterized by access to work and other programs consistent with security restrictions and institutional procedures. Classification reviews are utilized to determine eligibility/suitability for release from this status. This type of assignment is used primarily after a Disciplinary Hearing for an inmate found guilty of violating one or more serious rules, or of being dangerous to himself or others, or of being a serious escape risk, or of being in need of protection, or of posing a clear threat to the security of the facility. A Classification Board

hearing is sufficient for an inmate who is initially classified as maximum custody.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S.Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:

§349. Hearings

A. Disciplinary Board. Before the hearing can begin, accused inmates must acknowledge that they are familiar with their rights as follows:

1. the right to present evidence and witnesses in his behalf and to request cross-examination of the accuser, provided such requests are relevant, not repetitious, not unduly burdensome to the institution, or not unduly hazardous to staff or inmate safety. (The Board has the option of stipulating expected testimony from witnesses. In such a case, the Board should assign proper weight to such testimony as though the witness had actually appeared.) The accusing employee must be summoned when the report is based solely on information from Confidential Informants;

2. the right to Counsel Substitute for all alleged violations. The right to outside retained counsel only when the alleged violation is one for which the inmate could also be charged in a criminal court, e.g. possession of illegal drugs, rape, aggravated battery, etc.;

3. the right to not be compelled to incriminate himself;

4. the right to a written summary of the evidence and reasons for the judgment, including reasons for the sentence imposed, when the accused pled Not Guilty and was found Guilty. (This will usually appear on the finalized report.) The convicted inmate will automatically be given or sent a written summary;

5. the right to appeal consistent with the appeal procedure as outlined;

6. the right to a hearing within 72 hours of placement in Administrative Segregation. Official holidays, weekends, genuine emergencies, or good faith efforts by the administration to provide a timely hearing are the only exceptions. When it is not possible to provide a full hearing within 72 hours of placement in Administrative Segregation, the accused must be brought before the Board, informed of the reasons for the delay, and be remanded back to Administrative Segregation or released to his quarters after a date for a full hearing has been set;

7. the right to an unbiased hearing. Any Chairman/Member directly involved in the incident, who is biased for or against the accused, or who is in a therapeutic relationship with the inmate that would be jeopardized by the therapist's presence on the Disciplinary Board, cannot hear the case unless the accused waives recusal. Performance of a routine administrative duty does not necessarily constitute "direct involvement" or "bias;" and

8. the right to be given a written copy of the Disciplinary Report at least 24 hours before the hearing begins which describes the charges against the inmate (unless waived by him in writing.)

B. Conduct Of The Hearing. All rights and procedural requirements must be followed unless waived by the accused. Disciplinary Board hearings must be tape-recorded in their entirety, and the tapes preserved indefinitely for

subsequent judicial review. Hearings will generally be conducted as follows:

1. inmates who do not choose to be present can sign a waiver, which shall be read into the tape. Counsel Substitute shall represent him. The same applies to disruptive inmates who refuse to cooperate. If the inmate refuses to sign a waiver, one shall be prepared and his refusal noted with two witnesses. In either case, the Disciplinary Chairman should also sign the waiver;

2. the accused enters his name and number into the record (the tape) as does his Counsel or Counsel Substitute (if any) and confirms that he understands his rights. During the hearing, the accuser should only be present to testify. He may never be present during deliberations;

3. the Chairman reads the Disciplinary Report to the accused and asks for a plea. Available pleas are Not Guilty or Guilty. Should the accused attempt to enter an unavailable plea or refuse to enter a plea, the Chairman will enter a Not Guilty plea for him and proceed with the case;

4. preliminary motions, if any, by the defense should now be made. Such motions must be raised at the first opportunity or be considered waived and may include:

a. dismissal of the charge(s);

b. continuance (inmates are not entitled to a continuance to secure Counsel unless they are charged with a violation which is also a crime under state law. Only one continuance need be granted unless new information is produced. Therefore, all requests--to face accuser, call witness, etc.--must be made at once. A motion due to lack of 24-hour notice must be made at this time, including any challenge to the waiver of the 24-hour notice rule having not been made in writing.);

c. investigation;

d. any other appropriate motions.

5. the Board should rule on motions at the appropriate time and should give reasons for the ruling;

6. after entering his plea and motions, if any, the accused may present his defense. The Board may ask questions of the accused, his witnesses, and/or his accuser;

7. during deliberations, everyone except the Board, the Bailiff, and any official observers must leave the room, and the Board will decide the case on the basis of the evidence presented at the hearing. Official observers must not take part in the hearing or the deliberations. The Bailiff cannot participate in deciding the case or the sentence, and must not participate in the hearing at all when he is the accusing employee, unless he is summoned to testify under cross-examination. The accused's record may be examined to discover a pattern of similar misbehavior or a pending suspended sentence. The record may be examined in order to determine an appropriate sentence; and

8. following the deliberations, the Chairman will announce the verdict. If the verdict is Guilty, the Chairman will then announce the sentence. The Board has full authority to suspend any sentence they impose for a period of up to 90 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S.Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:

§351. Correcting Disciplinary Reports

A. A reviewing employee may change the rule number to fit the description prior to the hearing, but should ensure that the accused gets a corrected copy of the report at least 24 hours before the hearing begins. Rule number(s) may be added if the offense is clearly described on the report. An incident may consist of several related events; however, each separate and distinct rule violation should be processed independently in the disciplinary system.

B. Before the hearing begins, the Board may change the rule number to match the description of alleged misbehavior, if necessary, and also may change the rule number at any point prior to the deliberations, but should offer the accused a continuance to prepare the defense. It is the description of the conduct and not the rule number which determines the offense. The continuance may be waived and does not necessarily need to be for 24 hours.

C. Evidence. The Disciplinary Board shall carefully evaluate all evidence presented or stipulated. When the Disciplinary Report is based solely on information from a Confidential Informant, or from an inmate whose identity is known, it must be corroborated by witnesses (who may be other Confidential Informants), the record, or other evidence. The only time the accusing employee must be summoned for cross-examination is when the report is based solely on information from Confidential Informants. In order for the accuser to attest to the reliability of the information received from a Confidential Informant, the informant must not have been unreliable in the past and must have legitimate knowledge of the present incident(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S.Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:

§355. Sanctions

A. Sentences must fit the offense and the offender. An inmate with a poor conduct record may receive a more severe sentence than an inmate with a good conduct record for the same offense. Even so, serious offenses call for serious penalties. An inmate who violates more than one rule or the same rule more than once during an incident may receive a permissible sanction for each violation. After a finding of guilt for a new violation, a previously suspended sentence may be imposed as well as a new sentence. State and federal criminal laws apply to inmates. In addition to being sanctioned by prison authorities, inmates may also be prosecuted in state or federal court for criminal conduct. Restitution imposed in accordance with Department Regulation No. B-05-003 "Imposition of Restitution" is not a disciplinary penalty and may be assessed in addition to all other permissible penalties.

B. An inmate who has established a documented pattern of behavior indicating that he is dangerous to himself or others is a Habitual Offender. This includes an inmate who has been convicted of 3 major violations or a total of 5 violations in a 6 month period. Major violations are Schedule B offenses. A Habitual Offender may receive Schedule B penalties following conviction of a Schedule A offense when he has established a documented pattern of hostile or disruptive behavior as defined above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S.Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:

§357. Penalty Schedule-Disciplinary Report (Heard by Disciplinary Officer)

A. After a finding of guilt, the Disciplinary Officer may impose one or two of the penalties below for each violation:

1. reprimand;
2. extra Duty - up to 4 days for each violation;
3. loss of Minor Privilege for up to 2 weeks.

B. Extra Duty is defined as work to be performed in addition to the regular job assignment as specified by the proper authority. One day of Extra Duty is 8 hours of work.

C. Minor Privileges are:

1. radio and/or TV;
2. recreation and yard activities;
3. telephone (except for emergencies and legal);
4. movies;
5. canteen;
6. any other similar privilege.

AUTHORITY NOTE: Promulgated in accordance with RS. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S.Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:

§359. Penalty Schedule-Disciplinary Report (Heard by Disciplinary Board)

A. After a finding of guilt, the Disciplinary Board may impose one or two of the penalties below:

1. Schedule A
 - a. reprimand;
 - b. loss of minor privilege for up to 4 weeks;
 - c. extra duty - up to 4 days for each violation;
 - d. disciplinary detention/Isolation - up to 5 days for each violation;
 - e. forfeiture of good time Cup to a maximum of 30 days for each violation;
 - f. quarters change;
 - g. job change;
 - h. confinement to room or cell for up to 14 days (this does not exclude participation in work, meals, medical or other essential call-outs).
2. Schedule B
 - a. reprimand;
 - b. loss of minor privilege for up to 12 weeks, unless violation involved abuse of that privilege, then up to - 24 weeks;
 - c. confinement to room or cell for up to 30 days (this does not exclude participation in work, meals, medical, or other essential call-outs);
 - d. extra duty Cup to 8 days for each violation;
 - e. disciplinary detention/isolation - up to 10 days for each violation;
 - f. forfeiture of good time - up to a maximum of 180 days for each violation;
 - g. quarters change;
 - h. job change;
 - i. loss of hobbycraft - up to 12 months (at the discretion of the warden or his designee, based upon the

length of the sentence, this penalty may include loss of the hobbycraft box assignment--in such cases, the inmate would not be eligible to apply for resumption of this privilege until after the sentence has been served.) Loss of hobbycraft privileges that result from custody status changes, classification actions, housing or institutional assignment changes, other changes that may routinely occur during the course of incarceration, or the imposition of other disciplinary penalties are not to be considered as a "loss of hobbycraft" sanction in the context of the disciplinary process;

j. custody change from minimum to medium custody status. (Imposition of this sanction may include transfer to another institution.) Any quarters change, job change, or other changes that may result from imposition of this sanction are not a separate penalty for purposes of this section unless expressly indicated as a sanction;

k. custody change from minimum or medium custody status to maximum custody status (working cellblock or disciplinary detention/extended lockdown.) (imposition of this sanction may include transfer to another institution.) Any quarters change, job change, or other changes that may result from imposition of this sanction are not a separate penalty for purposes of this section unless expressly indicated as a sanction;

l. loss of visiting, if the violation involves visiting, to be reviewed by the warden or his designee every 90 days; (restrictions relative to non-contact versus contact visiting are governed by Department Regulation No. C-02-008 "inmate visitation" and are not considered disciplinary penalties).

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S.Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:

§361. Penalty Clarifications

A. Good Time. An inmate is presumed to have earned his good time for the month on the first day of the month and may forfeit such good time at any point during the month.

B. Suspended Sentences. The Disciplinary Officer or the Disciplinary Board may suspend any sentence they impose for a period of up to 90 days. The period of suspension begins on the date of sentence. When the time period has expired, the report itself remains a part of the record, although the sentence may no longer be imposed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S.Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:

§363. Appeals

A. Appeals To The Disciplinary Board. An inmate who wants to appeal a case heard by the Disciplinary Officer ("Low Court") must appeal to the Disciplinary Board ("High Court.") As soon as the sentence is passed, the inmate who wants to appeal must clearly say so to the Disciplinary Officer who will then automatically suspend the sentence and schedule the case for the Disciplinary Board. The appeal hearing before the Disciplinary Board is a full hearing the same as any other hearing conducted by the Board. The

Disciplinary Board cannot upgrade the sanction imposed by the Disciplinary Officer. The appeal to the Disciplinary Board will be the final appeal in a case heard by the Disciplinary Officer. No other appeals are allowed. The appeal from the Disciplinary Officer to the Disciplinary Board will constitute the final administrative remedy regarding the disciplinary decision. Decisions rendered by the Disciplinary Officer and appealed to the Disciplinary Board may not be appealed to the Warden or to the Secretary.

B. Appeals To The Warden

1. An inmate who wants to appeal a case heard by the Disciplinary Board ("High Court") must, in all cases, appeal to the Warden. The inmate may appeal himself or through Counsel or Counsel Substitute. In either case, the appeal must be received within 15 days of the hearing. The appeal should be clearly written or typed on form AF-1. If the form is not available, the appeal may be on plain paper but should contain the information called for on the form. The Warden will decide all appeals within 30 days of the date of receipt of the appeal and the inmate will be promptly notified in writing of the results (unless circumstances warrant an extension of that time period and the inmate is notified accordingly).

2. Lengthy appeals of disciplinary actions will not be accepted into the appeals process. It is necessary only that the inmate provide basic factual information regarding his case. Appeals that are too long will be returned to the inmate for summarization. The inmate will have five days from receipt to comply with the instructions and resubmit. It is important to remember that abuse of the system impairs our ability to respond to legitimate problems in a timely fashion.

C. Appeals to the Secretary

1. An inmate who wants to appeal the decision of the Warden to the Secretary will indicate that he is "not satisfied" in the appropriate box on the Warden's "Appeal Decision" (form AF-2) and submit it to the ARP Screening Officer, (or, in some units, the Warden's Office). The form must be submitted within 5 days of its receipt by the inmate. No supplement to the appeal will be considered. It is only necessary that the inmate check the box indicating "I am not satisfied," date, sign, and forward to the appropriate person. The inmate will receive an acknowledgment of receipt and date forwarded to the Secretary's office. The institution will provide a copy of the inmate's original appeal to be attached to the form AF-2 for submission to the Secretary.

2. The Secretary will only consider appeals from decisions of the Warden which resulted in an imposed or suspended sentence of one or more of the following penalties:

- a. disciplinary detention/isolation;
- b. loss of good time;
- c. custody change from minimum to medium only if it involves transfer to another institution;
- d. custody change to maximum custody.

3. In addition, all "restitution" assessments may be submitted to the Secretary for review.

4. The secretary will decide all appeals within 85 days of the date of receipt of the appeal and the inmate will be promptly notified in writing of the results (unless circumstances warrant an extension of that time period and the inmate is notified accordingly). Absent unusual

circumstances, the Secretary will only consider review of the sentence of an inmate who pled guilty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S.Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:

§365. Disciplinary Rules

A. An inmate found guilty of violating one or more of the rules defined below will be punished according to the penalty schedule designated in the rule and the type of hearing provided.

B. Contraband (Schedule B): No inmate shall have under his immediate control any drugs (such as, but not limited to, heroin, LSD, amphetamines, barbiturates, marijuana), unauthorized medication, alcoholic beverage, yeast, tattoo machine, or tattoo paraphernalia, syringe, weapon (such as, but not limited to, firearm, knife, iron pipe), or any other item not permitted by department regulation or institutional posted policy to be received or possessed, or any other item detrimental to the security of the facility, or smuggle or try to smuggle such items into or out of the facility. Money is contraband. The area of immediate control is an inmate's person, his locker(s), his cell, his room, his bed, his laundry bag, and his assigned job equipment (such as, but not limited to, his desk, his tool box, or his locker at the job), or the area under his bed on the floor unless the evidence clearly indicated that it belonged to another inmate. Contraband found in a cell shared by two or more inmates will be presumed to belong to all of them equally. Any inmate who is tested for and has a positive reading on a urinalysis or breathalyzer test will be considered in violation of this rule. An inmate who refuses to be tested or to cooperate in testing may also be found in violation of this rule, (including being unable to provide a urine specimen within 3 hours of being ordered to do so.) Any item not being used for the purpose for which it was intended will be considered contraband if it is being used in a manner that is clearly detrimental to the security of the facility.

C. Unauthorized Items (Schedule A): This distinguishes between contraband items that are detrimental to the security of the facility and those that are not authorized but clearly not detrimental to the safety and security of the facility.

D. Defiance (Schedule B): No inmate shall commit or threaten physically or verbally to commit bodily harm upon an employee, visitor, guest or their families. This includes throwing or attempting to throw any object, liquid, or substance, or spitting, or attempting to spit on an employee, visitor, guest or their families. No inmate shall curse or insult an employee, visitor, guest or their families. No inmate shall threaten an employee, visitor, guest or their families in any manner, however, an inmate may advise an employee of planned legal redress even during a confrontational situation (although an inmate's behavior in such a situation shall not be disrespectful or violate any other disciplinary rule.) No inmate shall obstruct or resist an employee who is performing his proper duties. No inmate shall try to intimidate an employee to make the employee do as the inmate wants him to do. An employee, visitor, guest or their families shall not be subject to abusive conversation, correspondence, phone calls, or gestures. La. R.S. 15:571.4 and Department Regulation No. B-04-005 "Forfeiture of

Good Time from Inmates who Escape or Commit Battery on an Employee" may provide for forfeiture of good time in addition to the provisions of these procedures.

E. Disobedience (Schedule A): Inmates must obey the Posted Policies for the facility in which they are confined. They must obey signs or other notices of restricted activities in certain areas, safety rules, or other general instructions. The only valid excuse for Disobedience or Aggravated Disobedience is when the immediate result of obedience would be bodily injury (this includes incapacity by virtue of a certified medical reason).

F. Disobedience, Aggravated (Schedule B): Inmates must obey direct verbal orders cooperatively and promptly; not debate, argue, or ignore them before obeying. When orders conflict, the last order received must be obeyed. Even orders the inmate believes improper must be obeyed; grievances must be pursued through proper channels. Sentences imposed by the Disciplinary Officer or the Disciplinary Board are to be carried out by the inmate. Violations of duty status will apply to this rule as will a violation of an order from the Disciplinary Board. The only valid excuse for Disobedience or Aggravated Disobedience is when the immediate result of obedience would be bodily injury (this includes incapacity by virtue of a certified medical reason).

G. Disorderly Conduct (Schedule A): All boisterous behavior is forbidden. This includes, but is not limited to, horseplay and/or disorderly conduct. Inmates shall not jump ahead or cut into lines at the store, movie, mess hall, or during group movements of inmates. Visitors and guests shall be treated courteously and not be subjected to disorderly or intrusive conduct. Inmates shall not communicate verbally into or out of cellblocks or other housing areas.

H. Disrespect (Schedule A): Employees, visitors, guests or their families shall not be subject to disrespectful conversation, correspondence, phone calls, actions or gestures. Inmates shall address employees, visitors, guests, or their families by proper title or by "Mr.," "Ms.," "Miss," or "Mrs." whichever is appropriate.

I. Escape (Schedule B): An escape or attempt to escape from the grounds of an institution or from the custody of an employee outside a facility, successful or not, or the failure to return from a furlough is a violation. La. R.S. 15:571.4 and Department Regulation No. B-04-005 "Forfeiture of Good Time from Inmates who Escape or Commit Battery on an Employee" may provide for forfeiture of good time for aggravated escape or simple escape in addition to the provisions of these procedures. (R.S. 14:110A.(2) provides for additional conditions under which an inmate in work release status may be charged under this rule.)

J. Fighting (Schedule B):

1. Hostile physical contact or attempted physical contact is not permitted. This includes fist fighting, shoving, wrestling, kicking, and other such behavior. Contact does not necessarily have to be made for this rule to be violated. If an inmate is found guilty of this violation, restitution may be imposed in accordance with Department Regulation No. B-05-003 "Imposition of Restitution."

2. Self-Defense Clarification: Self-defense is a complete defense and can be established to the Board by

demonstrating that his actions did not exceed those necessary to protect himself from injury.

K. Fighting, Aggravated (Schedule B):

1. Inmates shall not fight with each other using any object as a weapon (including any liquid or solid substances thrown or otherwise projected on or at another person). When two or more inmates attack another inmate without using weapons, the attackers are in violation of this rule, as are all participants in a group or "gang" fight. The use of teeth will also be sufficient to constitute a violation of this rule. No inmate shall intentionally inflict serious injury or death upon another inmate. Contact does not necessarily have to be made for this rule to be violated. If an inmate is found guilty of this violation, restitution may be imposed in accordance with Department Regulation No. B-05-003 "Imposition of Restitution."

2. Self-Defense Clarification. Self-defense is a complete defense and can be established to the Board by demonstrating that his actions did not exceed those necessary to protect himself from injury.

L. Gambling (Schedule B). No inmate shall operate or participate in any game of chance involving bets or wagers or goods or other valuables. Possession of one or more gambling tickets or stubs for football or any other sport is a violation. No inmate shall operate a book making scheme. Possession of gambling sheets with a list of names or codes, point spreads, how much owed, or how much wagered will be considered a violation.

M. Intoxication (Schedule B). No inmate shall be under the influence of any intoxicating substance at an institution or while in physical custody. Returning from a furlough under the influence of an intoxicating substance is a violation.

N. Malingering (Schedule B)

1. A qualified medical staff person (as defined by the institution's designated health care authority) determines that an inmate has made repeated and frequent complaints at sick call having little or no merit.

2. A qualified medical staff person (as defined by the institution's designated health care authority) determines that an inmate has sought emergency medical treatment not during scheduled sick call when there was no ailment or when there was a minor ailment that was or could have been properly handled at sick call.

3. If an inmate is found guilty of this violation, restitution may be imposed in accordance with Department Regulation No. B-05-003 "Imposition of Restitution."

O. Property Destruction (Schedule B). No inmate shall destroy the property of others or of the state. No inmate shall alter his own property when the result of such alteration is to render the article unsuitable according to property guidelines. Flooding an area and the shaking of doors ("racking down") are not permitted. Standing or sitting on face bowls is a violation. Whether or not the inmate intended to destroy the property and/or the degree of negligence involved may be utilized in defense of the charge. If an inmate is found guilty of this violation, restitution may be imposed in accordance with Department Regulation No. B-05-003 "Imposition of Restitution."

P. Radio/Tape Player Abuse (Schedule A). Radios/tape players must be used in accordance with the Posted Policies of the facility. Violations of Posted Policies regarding

radios/tape players may be processed under this rule. In addition to any sanction that may be imposed by the Disciplinary Officer or the Disciplinary Board, the ranking employee on duty may confiscate the radio/tape player for a period of up to 30 days. For repeated violations, the radio/tape player will be confiscated and disposed of in accordance with Department Regulation No. C-03-007 "Inmate Personal Property List, State Issued Items, etc." The inmate will not be permitted to have a similar item sent to him for one year.

Q. Self-Mutilation (Schedule B). No inmate shall deliberately inflict or attempt to inflict injury upon himself, upon a consenting inmate, or consent to have an injury inflicted upon himself. Tattoos, piercing of any parts of the body, and alterations to teeth are specifically included in this rule. Not included are obvious suicide attempts.

R. Sex Offenses, Aggravated (Schedule B). Carnal copulation by two or more inmates with each other, or by one or more inmates with an implement or animal(s), is not permitted. Two or more inmates who have obviously been interrupted immediately before or after carnal copulation are in violation. The same applies to one or more inmates with an implement or animal(s). Use of the genital organs of one of the inmates, regardless of sex, is sufficient to constitute the offense. Overt sexual activity is not permitted. Inmates may not participate in any sexual activity with each other. No inmate shall make sexual remarks, gestures, or sounds, or make sexual threats in conversation, or by correspondence or phone calls. No inmate shall deliberately expose the genital organs and/or masturbate in view of an employee, visitor, guest, or their families. No inmate shall sexually assault a person by force or threat of force.

S. Theft (Schedule B). No inmate shall steal from anyone. Forgery, a form of Theft, is the unauthorized altering or signing of a document(s) to secure material return and/or special favors or considerations. (The very act of the forgery will constitute proof of the crime. It need not have been successful in its conclusion.) Fraud, a form of Theft, is the deliberate misrepresentation of fact to secure material return and/or special favors or considerations. Any inmate who knowingly submits obviously false information to any employee within the Department of Public Safety and Corrections is guilty of this violation. Lying to the Secretary or Warden on appeal or in any other part of the Administrative Remedy Procedure or in correspondence will also be a violation. Those who file Administrative Remedy Requests that are frivolous or deliberately malicious may be disciplined under this Rule. No inmate shall have stolen items under his immediate control. No inmate shall have institutional property under his immediate control unless he has specific permission; this includes institutional foodstuffs. (Refer to Rule No. 1 for the definition of "area of immediate control".)

T. Unauthorized Area (Schedule A). An inmate must be in the area in which he is authorized to be at that particular time and date or he is in an unauthorized area. No inmate shall go into any housing unit other than that to which he is assigned - this includes standing in the doorway - unless he has permission.

U. Unsanitary Practices (Schedule A). Inmates must not spit or drop litter or cigarette butts anywhere but into a proper receptacle. Inmates must not smoke in unauthorized

areas. Inmates must maintain themselves, their clothing, and their shoes in as presentable a condition as possible under prevailing circumstances. Each inmate is responsible for keeping his bed and bed area reasonably clean, neat, and sanitary. Beds will be made according to the approved Posted Policy at the facility. Inmates must wear shoes/boots and cannot wear shirts that leave the armpits exposed or shorts into the mess hall, or chew gum in the mess hall.

V. Work Offenses (Schedule A). Inmates must perform their assigned tasks with reasonable speed and efficiency. Though inmates have specific job assignments, it may be required that they do work other than what their job assignments require; this work shall also be done cooperatively and with reasonable speed and efficiency. Being present, but not answering at the proper time at work roll call is a violation. A school assignment is considered to be a work assignment for the purposes of this rule.

W. Work Offenses, Aggravated (Schedule B). An inmate who flatly refuses to work or to go out to work, or who asks to go to Administrative Segregation rather than work, is in violation of this rule, as is an inmate who disobeys repeated instructions as to how to perform his work assignment. Hiding out from work or leaving the work area without permission is a violation. Falling far short of fulfilling reasonable work quotas is not permitted. Being absent or late from work roll call without a valid excuse (such as No Duty or callout) is a violation, as is not reporting for Extra Duty assignment. Being late to work (includes being late to school assignment) is a violation. A school assignment is considered to be a work assignment for the purposes of this rule.

X. Disturbance (Schedule B). No inmate shall create or participate in a disturbance. No inmate shall incite any other person to create or participate in a disturbance. A disturbance is considered as 2 or more inmates involving acts of force or violence toward persons or property or acts of resistance to the lawful authority of correctional officers and/or other law enforcement officers under circumstances which present a threat of injury to persons, to property, or to the security and good order of the institution.

Y. General Prohibited Behaviors (Schedule B). The following behaviors which may impair or threaten the security or stability of the unit or well-being of an employee, visitor, guest, inmate or their families are prohibited:

1. strong arming or using threats of violence or perceived harm or reprisal to secure gain or favor for oneself or others;
2. directly or indirectly threatening harm to oneself, (except obvious suicide attempts), another inmate, an employee, visitor, guest or their families;
3. threatening, planning, conspiring, or attempting to commit a violation of the rules of behavior for adult inmates or state or federal laws. Aiding or abetting another inmate involved in committing a violation of the rules, or state or federal laws;
4. engaging in non-professional relationships with an employee, visitor, or guest or other person the inmate may come in contact with while working on outside crews;
5. trafficking in drugs or alcohol, stolen goods, or sexual favors;
6. organizing or participating in a scam or similar behavior;

7. making unsolicited contact or attempted contact with the victims of one's criminal activity;

8. bribing, influencing, or coercing anyone to violate institutional policies, procedures, rules, or state or federal laws, or attempting to do so;

9. giving an employee anything of any value;

10. harassing behaviors conducted via telephone, correspondence, or other activities;

11. spreading rumors about an employee, visitor, guest, or inmate;

12. unapproved use of telephones;

13. purchasing or trading for inmate legal or other services. Performing legal work for another inmate or being in possession of another inmate's legal work when not assigned as a Counsel Substitute or when not approved by the Warden. (It is a violation for any inmate to give or receive anything of value relative to the provision of paralegal services.) An inmate may not perform or be in possession of staff legal work;

14. communicating or visiting with outsiders when not approved or communicating or visiting with any person after being given instructions not to communicate or visit with that person;

15. participating in a loud or boisterous argument or dispute even when a fight does not ensue;

16. participating in, organizing, or advocating a work stoppage;

17. making or attempting to make credit purchases;

18. abusing the Administrative Remedy Procedure;

19. belonging to a gang, advocating membership in a gang, or participating in any gang related activities, including any form of gang or group identification or signaling;

20. no inmate shall misrepresent himself to an employee, visitor, guest or the public;

21. starting or attempting to start a fire and/or attempting to heat substances utilizing electrical/mechanical devices or any other means;

22. failing to cooperate with an investigation;

23. any behavior not specifically enumerated herein that may impair or threaten the security or stability of the unit or well-being of an employee, visitor, guest, inmate or their families may still be the subject of a disciplinary report and all Schedule B penalties except for forfeiture of good time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S.Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:

Richard L. Stalder
Secretary

0012#090

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Office of State Police

Safety Devices for Trailers
(LAC 55:I.2323)

In accordance with the emergency provisions of the Administrative Procedures Act, R.S. 49:953 B, and R.S. 32:384 the Office of State Police is declaring an emergency due to the public safety hazard posed by the inadequacy of safety chains to maintain control of a trailer which has become disconnected from the vehicle pulling it. This hazard has resulted in serious injury and death as a result of these disconnected trailers striking other vehicles on Louisiana roads and highways. The Legislature has statutorily provided [at R.S. 32:384(E)] for a safety device which would serve as an alternative to safety chains, but such statute requires the promulgation of a rule by the Office of the State Police which would outline the process for approval of such a device.

The following Rule was inadvertently deleted from a previously promulgated chapter concerning the Weights and Standards Mobile Police Force. The built-in time periods for promulgation of this Rule would create an unacceptable delay in approving such safety device.

The immediate promulgation of this rule would allow for a more timely approval of such a safety device, which in turn, could save lives. The effective date of this Emergency Rule is December 8, 2000, and it shall be in effect for 120 days or until the final rule takes effect through normal promulgation process, whichever occurs first.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 23. Weights And Standards

' 2323 Approval of Safety Devices

A. Pursuant to R.S. 32:384(D), every trailer and semi-trailer with a loaded gross weight capacity of up to 6,000 pounds shall be equipped with safety chains or another approved safety device. This statute requires that the safety device shall be securely attached to the towing vehicle when the trailer or semi-trailer is in motion, and shall be of sufficient strength to hold the trailer behind the towing vehicle in case the primary connection between the two vehicles detaches.

B. The above-mentioned safety device is to be approved by the department, as per R.S.32:384(E). In order to be approved, the device shall be produced, manufactured and/or constructed by a bonded and insured manufacturer of such equipment who carries product liability insurance and regularly produces safety devices of guaranteed quality. The manufacturer shall submit to the department certification from a bonded and insured reputable testing laboratory,

regularly engaged in the testing of such equipment, indicating that the strength capacity of the device submitted for approval and all its components are not less than the manufacturer's indicated breakaway weight or ultimate strength.

C. The device submitted for approval shall meet the following requirements:

1. construction material to consist of steel or other alloy of equal or greater strength;
2. tinsel strength of the unit and all components shall be greater than 6,000 pounds or the gross vehicle weight rating of the vehicle being towed, whichever is greater;
3. the method by which the safety device is attached from the towing vehicle to the towed vehicle shall be independent and not attached to the primary towing device. It should attach to the vehicle's main frame and/or receiver if equipped with a tow package and/or the bumper if the bumper is rated of sufficient strength to meet or exceed the tow rating for the safety device. At no time should the safety device be attached to the trailer hitch ball or shank;
4. the safety device shall meet or exceed the strength standards set by the Society of Automotive Engineers (S.A.E.) for the manufacture, use and application of safety chains, as they relate to the towing of vehicles or trailers.

D. The manufacturer of the submitted device shall:

1. have a certified bond of insurance in the amount of not less than \$1,000,000.
2. be a business in good standing, not delinquent on taxes or other fees.
3. assign a model designation to each variant or design and it shall be unique to the individual model. All changes or alterations to devices shall require a separate application being submitted by the manufacturer.

E. As a prerequisite to licensing, applicants shall submit the following to the department when seeking approval:

1. certificate of inspection from an insured and accredited scientific testing laboratory;
2. pictures and Schematics of the device;
3. certificate of insurance in the amount of not less than \$1,000,000;
4. articles of incorporation or other documents forming a legal company or business;
5. tax identification numbers.

F. The Commander of the Louisiana State Police Transportation and Environmental Safety Section, or his designee, shall have the authority and discretion to approve or deny any and all Safety Devices submitted for approval. The Louisiana State Police, may at its discretion, withdraw or repeal its approval, upon written notice, of any device that may later be determined unsafe or hazardous to the public or as a result of any actions by the manufacturer or its employees in violation of this section. All costs of testing, certification and other related costs shall be borne by the manufacturer/applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:384.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:

Jerry Jones
Undersecretary

0012#062

DECLARATION OF EMERGENCY

Department of Revenue Tax Commission

Ad Valorem Taxation (LAC 61:V.309, 703, 907,
1103, 1307, 1503, 2503, 2705 and 2707)

The Louisiana Tax Commission, at its meeting of December 5, 2000, exercised the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to its authority under R.S. 47:1837, adopted the following additions, deletions and amendments to the Real/Personal Property Rules and Regulations.

This Emergency Rule is necessary in order for ad valorem tax assessment tables to be disseminated to property owners and local tax assessors no later than the statutory valuation date of record of January 1, 2001. Cost indexes required to finalize these assessment tables are not available to this office until late October, 2000. The effective date of this emergency rule is January 1, 2001.

Title 61

REVENUE AND TAXATION

Part V. Ad Valorem Taxation

Chapter 3. Real and Personal Property

§309. Tax Commission Miscellaneous Forms

A. - D. ...

E. Application For ExemptionCReal Estate Taxes may be used for exemption clarification in a case of a protest/appeal to the Tax Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 21:186 (February 1995), amended LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998), LR 27:

Chapter 7. Watercraft

§703. TablesC Watercraft

A. Floating EquipmentCMotor Vessels

Floating EquipmentCMotor Vessels				
Cost Index (Average)		Average Economic Life 12 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2000	0.992	1	94	.93
1999	1.010	2	87	.88
1998	1.013	3	80	.81
1997	1.022	4	73	.75
1996	1.038	5	66	.69
1995	1.054	6	58	.61
1994	1.092	7	50	.55
1993	1.123	8	43	.48
1992	1.144	9	36	.41
1991	1.158	10	29	.34
1990	1.182	11	24	.28
1989	1.213	12	22	.27
1988	1.278	13	20	.26

B. Floating Equipment/Barges (Nonmotorized)

Floating Equipment/Barges (Nonmotorized)				
Cost Index (Average)		Average Economic Life 20 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2000	0.992	1	97	.96
1999	1.010	2	93	.94
1998	1.013	3	90	.91
1997	1.022	4	86	.88
1996	1.038	5	82	.85
1995	1.054	6	78	.82
1994	1.092	7	74	.81
1993	1.123	8	70	.79
1992	1.144	9	65	.74
1991	1.158	10	60	.69
1990	1.182	11	55	.65
1989	1.213	12	50	.61
1988	1.278	13	45	.58
1987	1.333	14	40	.53
1986	1.352	15	35	.47
1985	1.365	16	31	.42
1984	1.385	17	27	.37
1983	1.423	18	24	.34
1982	1.449	19	22	.32
1981	1.517	20	21	.32
1980	1.673	21	20	.33

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:924 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:204 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998), LR 25:312 (February 1999), LR 26:506 (March 2000), LR 27:

Chapter 9. Oil and Gas Properties

§907. Tables/C Oil and Gas

A. ...

1. Oil, Gas and Associated Wells; Region C/North Louisiana

Table 907.A-1 Oil, Gas and Associated Wells Region C/North Louisiana				
Producing Depths	Cost/C New by depth, per foot		15% of Cost/C New by depth, per foot	
	\$Oil	\$Gas	\$Oil	\$Gas
0 - 1,249 ft.	7.03	14.82	1.05	2.22
1,250 - 2,499 ft.	9.12	10.66	1.37	1.60
2,500 - 3,749 ft.	13.02	11.71	1.95	1.76
3,750 - 4,999 ft.	14.37	14.39	2.16	2.16
5,000 - 7,499 ft.	19.64	19.94	2.95	2.99
7,500 - 9,999 ft.	20.94	29.45	3.14	4.42
10,000 -12,499 ft.	32.28	37.31	4.84	5.60
12,500 -Deeper ft.	N/A	66.84	N/A	10.03

2. Oil, Gas and Associated Wells; Region C/South Louisiana

Table 907.A-2 Oil, Gas and Associated Wells Region C/South Louisiana				
Producing Depths	Cost - New by depth, per foot		15% of Cost - New by depth, per foot	
	\$Oil	\$Gas	\$Oil	\$Gas
0 - 1,249 ft.	17.71	74.46	2.66	11.17
1,250 - 2,499 ft.	44.01	66.77	6.60	10.02
2,500 - 3,749 ft.	48.13	58.71	7.22	8.81
3,750 - 4,999 ft.	36.69	49.01	5.50	7.35
5,000 - 7,499 ft.	40.72	51.42	6.11	7.71
7,500 - 9,999 ft.	44.98	55.24	6.75	8.29
10,000 -12,499 ft.	50.13	66.29	7.52	9.94
12,500 -14,999 ft.	65.39	89.51	9.81	13.43
15,000 -17,499 ft.	100.29	110.25	15.04	16.54
17,500 -19,999 ft.	96.39	141.85	14.46	21.28
20,000 -Deeper ft.	109.25	201.01	16.39	30.15

3. Oil, Gas and Associated Wells; Region 3/Offshore State Waters

Table 907.A-3 Oil, Gas and Associated Wells Region 3/Offshore State Waters*				
Producing Depths	Cost/C New by depth, per foot		15% of Cost/C New by depth, per foot	
	\$Oil	\$Gas	\$Oil	\$Gas
0 - 1,249 ft.	N/A	N/A	N/A	N/A
1,250 - 2,499 ft.	344.56	383.09	51.68	57.46
2,500 - 3,749 ft.	319.28	294.72	47.89	44.21
3,750 - 4,999 ft.	280.71	136.43	42.11	20.46
5,000 - 7,499 ft.	209.68	153.61	31.45	23.04
7,500 - 9,999 ft.	177.27	153.83	26.59	23.07
10,000 -12,499 ft.	163.47	156.03	24.52	23.40
12,500 -14,999 ft.	145.61	174.37	21.84	26.16
15,000 -17,499 ft.	160.91	201.01	24.14	30.15
17,500 -Deeper ft.	462.60	301.20	69.39	45.18

A.4. - B.1. ...

2. Serial Number to Percent Good Conversion Chart

Table 907.B-2 Serial Number to Percent Good Conversion Chart			
Year	Beginning Serial Number	Ending Serial Number	25 Year Life Percent Good
2000	223899	Higher	96
1999	222882	223898	92
1998	221596	222881	88
1997	220034	221595	84
1996	218653	220033	80
1995	217588	218652	76
1994	216475	217587	72
1993	215326	216474	68
1992	214190	215325	64
1991	212881	214189	60
1990	211174	212880	56
1989	209484	211173	52
1988	207633	209483	48
1987	205211	207632	44
1986	202933	205210	40
1985	197563	202932	36
1984	189942	197562	32
1983	Lower	189941	30*
VAR.	900000	Higher	50

* Reflects residual or floor rate.

B.3. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:480 (March 1998), LR 25:313 (February 1999), LR 26:507 (March 2000), LR 27:

Chapter 11. Drilling Rigs and Related Equipment

§1103. Drilling Rigs and Related Equipment Tables

A.1. Land Rigs

Table 1103.A Land Rigs		
Depth "0" To 7,000 Feet		
Depth (ft.)	Fair Market Value	Assessment
3,000	\$ 135,400	\$ 20,300
4,000	181,900	27,300
5,000	222,600	33,400
6,000	263,300	39,500
7,000	303,800	45,600
Depth 8,000 To 10,000 Feet		
Depth (ft.)	Fair Market Value	Assessment
8,000	\$ 344,300	\$ 51,600
9,000	392,000	58,800
10,000	461,700	69,300
Depth 11,000 To 15,000 Feet		
Depth (ft.)	Fair Market Value	Assessment
11,000	\$ 521,500	\$ 78,200
12,000	613,800	92,100
13,000	700,500	105,100
14,000	786,500	118,000
15,000	870,400	130,600
Depth 16,000 To 20,000 Feet		
Depth (ft.)	Fair Market Value	Assessment
16,000	\$ 954,300	\$ 143,100
17,000	1,046,800	157,000
18,000	1,142,000	171,300
19,000	1,249,000	187,400
20,000	1,391,100	208,700
Depth 21,000 + Feet		
Depth (ft.)	Fair Market Value	Assessment
21,000	\$ 1,533,300	\$ 230,000
25,000 +	2,101,800	315,300

A.2. - C. ...

D. Well Service Rigs Land Only (Good Condition)

Table 1103.D Well Service Rigs		
Engine Rated hp	Fair Market Value	Assessment
220	\$ 91,080	\$ 13,700
300	102,470	15,400
400	130,930	19,600
500 +	170,780	25,600

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:939 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 22:117 (February 1996), LR

23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:487 (March 1998), LR 25:315 (February 1999), LR 26:508 (March 2000), LR 27:

Chapter 13. Pipelines

§1307. Pipeline Transportation Tables

A. Current Costs for Other Pipelines Onshore

Table 1307.A Current Costs for Other Pipelines Onshore		
Diameter (inches)	Cost Per Mile	15% of Cost Per Mile
2	\$ 83,660	\$ 12,550
4	91,380	13,710
6	104,240	15,640
8	122,240	18,340
10	145,390	21,810
12	173,680	26,050
14	207,110	31,070
16	245,670	36,850
18	289,390	43,410
20	338,250	50,740
22	392,250	58,840
24	451,390	67,710
26	515,670	77,350
28	585,090	87,760
30	659,660	98,950
32	739,370	110,910
34	824,220	123,630
36	914,210	137,130
38	1,009,350	151,400
40	1,109,630	166,440
42	1,215,040	182,260
44	1,325,600	198,840
46	1,441,310	216,200
48	1,562,150	234,320

Note: Excludes river and canal crossings.

B. Current Costs for Other Pipelines Offshore

Table 1307.B Current Costs for Other Pipelines Offshore		
Diameter (inches)	Cost Per Mile	15% of Cost Per Mile
6	\$ 430,670	\$ 64,600
8	438,810	65,820
10	449,260	67,390
12	462,030	69,300
14	477,140	71,570
16	494,550	74,180
18	514,290	77,140
20	536,350	80,450
22	560,740	84,110
24	587,440	88,120
26	616,460	92,470
28	647,810	97,170
30	681,480	102,220
32	717,460	107,620
34	755,780	113,370
36	796,410	119,460
38	839,360	125,900
40	884,630	132,690
42	932,230	139,830
44	982,150	147,320
46	1,034,390	155,160
48	1,088,950	163,340

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:941 (November 1984), LR 12:36 (January 1986), LR 16:1063 (December 1990), amended by the Department of Revenue, Tax Commission, LR 24:489 (March 1998), LR 25:316 (February 1999), LR 26:508 (March 2000), LR 27:

Chapter 15. Aircraft

§1503. Aircraft (Including Helicopters) Table

A. Aircraft

Table 1503 Aircraft (Including Helicopters)				
Cost Index (Average)		Average Economic Life (10 Years)		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2000	0.992	1	92	.91
1999	1.010	2	84	.85
1998	1.013	3	76	.77
1997	1.022	4	67	.68
1996	1.038	5	58	.60
1995	1.054	6	49	.52
1994	1.092	7	39	.43
1993	1.123	8	30	.34
1992	1.144	9	24	.27
1991	1.158	10	21	.24
1990	1.182	11	20	.24

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:943 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:206 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:

Chapter 25. General Business Assets

§2503. Tables Ascertaining Economic Lives, Percent Good and Composite Multipliers of Business and Industrial Personal Property

Business Activity/Type of Equipment	Average Economic Life In Years

Oilfield Rental Tanks	15

B. Cost Indices

Year	Age	National Average 1926 = 100	January 1, 2000 = 100*
2000	1	1084.3	0.992
1999	2	1065.0	1.010
1998	3	1061.8	1.013
1997	4	1052.7	1.022
1996	5	1036.0	1.038
1995	6	1020.4	1.054
1994	7	985.0	1.092
1993	8	958.0	1.123
1992	9	939.8	1.144

1991	10	928.5	1.158
1990	11	910.2	1.182
1989	12	886.5	1.213
1988	13	841.4	1.278
1987	14	806.9	1.333
1986	15	795.4	1.352
1985	16	787.9	1.365
1984	17	776.4	1.385
1983	18	755.8	1.423
1982	19	742.4	1.449
1981	20	709.2	1.517
1980	21	642.8	1.673
1979	22	584.4	1.841
1978	23	534.7	2.012
1977	24	497.1	2.164
1976	25	472.1	2.278
1975	26	444.3	2.421

*Reappraisal Date: January 1, 2000 - 1075.6 (Base Year)

D. Composite Multipliers

Table 2503.D Composite Multipliers 2001 (2002 Orleans Parish)									
Age	3 Yr	5 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr	
1	.69	.84	.89	.91	.93	.94	.96	.97	
2	.49	.70	.80	.85	.88	.91	.94	.96	
3	.34	.53	.68	.77	.81	.86	.91	.94	
4	.20	.35	.55	.68	.75	.81	.88	.92	
5		.24	.45	.60	.69	.76	.85	.90	
6		.21	.35	.52	.61	.72	.82	.89	
7			.28	.43	.55	.68	.81	.88	
8			.25	.34	.48	.62	.79	.88	
9			.23	.27	.41	.56	.74	.86	
10				.24	.34	.50	.69	.82	
11				.24	.28	.44	.65	.80	
12					.27	.38	.61	.78	
13					.26	.33	.58	.77	
14						.31	.53	.75	
15						.28	.47	.70	
16						.27	.42	.66	
17							.37	.61	
18							.34	.55	
19							.32	.49	
20							.32	.46	
21							.33	.43	
22								.42	
23								.42	
24								.43	
25								.46	
26								.48	

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 10:944 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:207 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:317 (February 1999), LR 26:509 (March 2000), LR 27:

Chapter 27. Guidelines for Application, Classification and Assessment of Land Eligible to be Assessed at Use Value

§2705. Classification

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Beauregard	Jefferson Davis	West Feliciana
Bienville	Plaquemines	
East Feliciana	Vernon	

* * *

AUTHORITY NOTE: Promulgated in accordance with LSA - Constitution of 1974, Article VII, §18, R.S. 47:2302, R.S. 47:2303 and R.S. 47:2304.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 3:289 (June 1977), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 15:1097 (December 1989), LR 19:212 (February 1993), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:208 (February 1997), amended by the Department of Revenue, Tax Commission, LR 25:318 (February 1999), LR 26:510 (March 2000), LR 27:

§2707. Map Index Table

<p>Table 2707 Map Index Listing of General Soil Maps and Modern Soil Surveys For The State of Louisiana Published By U.S. Dept. of Agriculture, Natural Resources Conservation Service In Cooperation With Louisiana Agricultural Experiment Station</p>			
Parish	Date (General)	Map No. (General)	Date Published or Status (Modern)
* * *			
Winn	Dec., 1970	4-R-16052-A	May, 2000

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2301 and R.S. 47:2308.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 3:290 (June 1977), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:946 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:208 (February 1997), amended by the Department of Revenue, Tax Commission, LR 25:319 (February 1999), LR 26:511 (March 2000), LR 27:

Malcolm B. Price, Jr.
Chairman

0012#034

DECLARATION OF EMERGENCY

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

Red Snapper Commercial Season

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary of the department, by the commission in its resolution of December 2, 1999, to close the 2000 fall commercial red snapper season in Louisiana state waters when he is informed that the designated portion of the commercial red snapper quota for the Gulf of Mexico has been filled, or projected to be filled, the secretary hereby declares:

Effective 12 noon, December 8, 2000, the commercial fishery for red snapper in Louisiana waters will close and remain closed until 12 noon, February 1, 2001. Nothing herein shall preclude the legal harvest of red snapper by legally licensed recreational fishermen once the recreational season opens. Effective with this closure, no person shall commercially harvest, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell red snapper. Effective with the closure, no person shall possess red snapper in excess of a daily bag limit, which may only be in possession during the open recreational season as described above. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure providing that all commercial dealers possessing red snapper taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5.

The secretary has been notified by National Marine Fisheries Service that the commercial red snapper season in Federal waters of the Gulf of Mexico will close at 12 noon, December 8 2000. Closing the season in state waters is necessary to provide effective rules and efficient enforcement for the fishery, to prevent overfishing of this species in the long term.

James H. Jenkins, Jr.
Secretary

0012#006