

Rules

RULE

Department of Economic Development Office of Financial Institutions

Residential Mortgage Lending Continuing Education (LAC 10:XII.101-113)

Under the authority of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 6:1085 and R.S. 6:1094(A) of the Residential Mortgage Lending Act, (RMLA), the Commissioner of Financial Institutions has adopted the following rule to provide guidelines governing required professional education for licensure pursuant to the RMLA by establishing requirements, procedures and standards for persons intending to participate in the RMLA continuing education program by conducting educational programs regarding licensure activity pursuant to the RMLA.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC

Part XII. Residential Mortgage Lending

Chapter 1. Residential Mortgage Lending Program

§101. Purpose

This Rule establishes minimum requirements that a certified continuing education facilitator must meet; procedures and standards for the facilitator's certification; and a procedure for verifying that continuing education requirements have been met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:688 (May 2001).

§103. Procedures and Standards for Facilitator Course Certification

A. Persons who want to participate in the Residential Mortgage Lending Continuing Education Program as a facilitator must obtain certification by the commissioner of Financial Institutions ("commissioner") before engaging in that activity. Facilitators are subject to review by the Residential Mortgage Lending Board and must demonstrate their ability to provide an educational program relevant to the mortgage business. Facilitators providing educational programs with live class settings must provide instructors with knowledge, experience and teaching skills and provide quality student materials necessary to improve the professional level of licensees. A facilitator must submit to the board the following not less than 30 days prior to the expected use of the program and pay a \$500 course evaluation fee as provided by R.S. 6:1094(C)(2). The commissioner may waive the 30-day requirement for good cause upon written request.

1. Continuing Education Facilitator Application on a form provided by the commissioner, along with its required attachments.

2. A copy of the student workbook and materials and a course outline on subject matter chosen from the approved topic list provided by the commissioner. The outline shall include presentation time specifications, a list of resource material, training aids, and the method of presentation.

a. If a facilitator submits a course with copyrighted materials, every student must be provided with original materials as part of the registration. No substitute texts, outlines, summaries or copyright infringements will be allowed.

b. Proprietary student material must be submitted to the board for review based on its own merits and must not infringe on existing copyright materials.

c. Description of the course material provider's method and frequency of updates to insure the integrity of the material.

3. Evidence that the course material is current and includes new developments in the residential mortgage business.

4. Any course that has not been certified by the commissioner before the date on which it is to be presented shall not be represented or advertised in any manner as "certified" for continuing education credit.

5. Certification is for one year. A facilitator may be re-certified by providing evidence that course materials are current and include recent changes in federal and state laws, rules, and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:688 (May 2001).

§105. Course Requirements

A. Each certified facilitator conducting courses in Louisiana must meet the following requirements.

1. Courses must consist of at least eight hours of certified continuing education courses on topics submitted with the application and chosen from the approved topic list on a form provided by the commissioner.

2. Two hours of RMLA Orientation covering the Office of Financial Institutions' (OFI) application process, examination, and general overview of the Louisiana Residential Mortgage Lending Act. OFI will provide material to instructors.

3. A training schedule on a form provided by the commissioner must be submitted with each request for certification and re-certification. Any change in this schedule must be filed with the commissioner not less than seven days prior to the scheduled date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:688 (May 2001).

§107. Training Facility Requirements for Live Class Settings

A. The training facility must be easily accessible and secure for the safety of the student. It must comply with all applicable state and federal laws, including but not limited to the Americans with Disabilities Act of 1990.

B. An atmosphere conducive to the education presentation shall be maintained, including good housekeeping; controlled environment as to heating and cooling; proper lighting; and proper furnishings.

C. The instructional area of the facility should be for the exclusive use of the instructional course while in session.

D. The facilitator is responsible for adequate training aids, overhead viewing equipment availability and proper visual layout of the classroom.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:689 (May 2001).

§109. Procedures for Verifying Continuing Education Credits

A. The facilitator must submit a list of all participants who complete their course to the commissioner in a format approved by the commissioner. The list must be submitted within five business days of the course. The facilitator shall issue a certificate on a form approved by the commissioner, to each individual within 10 business days of successfully completing the course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:689 (May 2001).

§111. Program ReviewC Disciplinary Action

A. The commissioner, his designee, or a board member with approval of the commissioner shall have the authority to visit a training facility and review the facilitator's program at any time. Visits may include the review of curriculum records, review of attendance records and observation of instructional sessions in progress.

B. The certification of a facilitator may be suspended or revoked by the commissioner if he determines that:

1. the facilitator's teaching method or curriculum does not meet the standards of this rule or has been significantly changed from that submitted for certification without notice to the commissioner for approval;

2. the facilitator certifies to the commissioner that an individual has completed an approved course in accordance with the standards furnished for certification or completion of the program, when in fact the individual has failed to do so;

3. the facilitator fails to issue a certificate to an individual who has satisfactorily completed the seminar in accordance with the standards furnished for certification; or

4. the commissioner determines there is good and just cause to suspend or revoke certification.

C. Reinstatement of a suspended certification may be made upon the furnishing of proof satisfactory to the

commissioner that the conditions responsible for the suspension have been corrected.

D. The commissioner, his designee, or the board at the commissioner's direction, shall review all written complaints lodged against a facilitator or instructor. A meeting may be called for the purpose of investigating the complaint and/or taking necessary action to resolve the complaint. If the facilitator's certification is suspended, the facilitator must respond to the commissioner within 15 days after receiving notice of such suspension.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:689 (May 2001).

§113. Facilitators for Courses Conducted Out of State

A. Certified facilitators who provide courses at locations out of state must comply with all parts of this Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:1085 and R.S. 6:1094(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 27:689 (May 2001).

John D. Travis
Commissioner

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RULE

**Department of Economic Development
Racing Commission**

Account Wagering (LAC 35:XIII.Chapter 120)

The Louisiana State Racing Commission has adopted the following Rule (chapter).

Title 35

HORSE RACING

Part XIII. Wagering

Chapter 120. Account Wagering

§12001. Definitions

*Account Holder*Ca person authorized by the licensee to place wagers via account wagering.

*Account Wager*Ca wager placed by means of account wagering.

*Account Wagering*Ca form of pari-mutuel wagering in which an individual may deposit money in an account with a licensee and use the account balance to pay for pari-mutuel wagering authorized by R.S. 4:149.5 to be conducted by the licensee. An account wager may be made by the account holder in person, via telephonic device or by communication through other electronic media.

*Account Wagering Center*Cthe facility or facilities for maintaining and administering the account wagering system.

*Source Market Area*Cthe circular area within a 55-mile radius of a licensed racing facility and any additional area within which the consent of such facility is required as a prerequisite to the acceptance of off-track wagers by another licensee.

*Source Market Commission*Call fees or commissions received by any racing association as a result of account wagers being placed with the entity that pays such fee or

commission or any entity other than the racing association receiving said fee or commission by persons residing within a defined market area near the racing association and shall include a fee which shall be paid by a licensed racing facility which accepts an account wager to another licensed racing facility whenever the person placing the account wager:

1. resides within the source market area surrounding the latter licensed racing facility; and

2. does not place the wager in person at the facility accepting the wager. The percentage used to calculate the source market commission shall be, with respect to each account wager accepted on a particular day, equal to the highest source market percentage paid on that day to the licensed racing facility within the source market area by any other account wagering carrier located outside of the state.

Wagering Account or *Account*—the account maintained and administered through an account wagering center for account holders who wish to place account wagers and otherwise participate in account wagering.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:689 (May 2001).

§12003. Authorization

A. A system of account wagering may be operated only by a licensee, or employees or agents of such licensee, who is/are authorized to do so pursuant to R.S. 4:149.5(B)(1). The authorized licensee may, subject to applicable state and federal laws, conduct account wagering on any races conducted at its facility and on any races conducted at other facilities, within or outside of this state. Wagering accounts may be established for an individual whose principal residence is outside this state if the racing association complies with all applicable provisions of federal and state law. All wagers placed through the licensee's system of account wagering shall be considered to have been made in this state.

B. An authorized licensee may not accept wagers from residents located in proximity to the racing facility of another licensee as provided for in R.S. 4:214(A)(3), without having provided the commission with sufficient evidence of how the authorized licensee intends to identify such account holders and pay to such other licensee the source market percentage required to be paid pursuant to R.S. 4:149.5(B)(2).

C. A licensee of race meetings shall provide the commission with written evidence of its consent to the acceptance, by an operator of a system of account wagering located outside this state, of wagers placed with such account wagering system by residents or other persons located within or outside of this state on races conducted in this state by that licensee. In the absence of such written evidence, no system of account wagering located outside this state may accept such wagers.

D. A licensee of race meetings authorized pursuant to R.S. 4:149.5(B)(1) to conduct account wagering in this state shall provide the commission with written evidence of its consent to the acceptance, by an operator of a system of account wagering located outside this state, of wagers placed with such account wagering system by residents or other persons located within this state on races conducted outside this state. In the absence of such written evidence, no system

of account wagering located outside this state may accept such wagers.

E. A licensee, as defined in R.S. 4:149.5, may conduct account wagering made in person, by telephonic device or by communication through other electronic media. The maintenance and operation of account wagering shall be in accordance with the *Rules of Racing* and R.S. 4:149.5. The licensee shall request authorization and receive approval from the commission before a system of account wagering is offered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:690 (May 2001).

§12005. Establishment

A. The licensee may offer a system of account wagering to its patrons whereby wagers are debited in, and payouts credited to, an account in the name of the patron, that is held by the licensee. The licensee shall notify the patron, at the time of opening the account, of any rules or procedures the licensee has adopted concerning deposits, withdrawals, average daily balances, user or service fees, interest payments, hours of operation, and any other aspect of the operation of the account. The licensee shall notify the patron whenever the rules governing the account are changed and shall endeavor to provide such notification before the new rules are applied to the account and including the opportunity to close or cash-in the account. The patron shall be deemed to have accepted the rules of account operation upon opening or not closing the account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:690 (May 2001).

§12007. Compliance

A. Account wagering shall be conducted in compliance with the *Rules of Racing* and all applicable state and federal laws. Unless elsewhere specifically set forth, an account wager shall be subject to the statutory provisions and rules and regulations which govern all pari-mutuel wagers placed within the enclosure at which the licensee is authorized to conduct race meetings. From each account wager, there shall be deducted the same percentage as is deducted on a wager if made in person in the same wagering pool at the licensee's race track.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:690 (May 2001).

§12009. Wagering Pools

A. The total amount of all account wagers shall be included in the respective pools for each race and shall be combined into the licensee's pools or, with approval of the commission, directly into the corresponding pools of a host track in another jurisdiction. The amount wagered in such pools from wagering accounts shall be debited accordingly, and any winnings shall be automatically credited to such accounts upon the race being declared official.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:690 (May 2001).

§12011. Hours of Operation

A. Account wagers shall be accepted during such times and on such days as designated by the licensee, subject to state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:691 (May 2001).

§12013. Service Fees

A. As part of its rules, the licensee may, with the approval of the commission and prior notice to the account holder, impose user or service fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:691 (May 2001).

§12014. Source Market Commissions

A. Fifty percent of all source market commissions shall be distributed at the licensed racing facility which receives such source market commissions for the purposes and in the percentages provided in the provisions of R.S. 4:183(A)(4)(a) and (b).

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2, R.S. 4:149.5 and R.S. 4:183.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:691 (May 2001).

§12015. Account Wagering Center

A. The licensee shall operate an account wagering center(s) for the purpose of keeping wagering accounts, recording wagers, maintaining records of credits and debits to the accounts, and otherwise administering the account wagering system. The location of such account wagering center(s) shall be subject to the approval of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:691 (May 2001).

§12017. Licensees Employees and Agents

A. The licensee shall appoint officers, employees or agents of the licensee to have management and control of the various aspects of the account wagering system for the licensee, including the account wagering center. As used herein, *licensee* includes the officers, directors and employees of the licensee, and persons, agents or other entities with the authority to accept deposits and wagers on behalf of the licensee and otherwise maintain and administer the system of account wagering. Such persons or entities may also provide services linking transactions from an account holder to a totalizator company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:691 (May 2001).

§12019. Wagering Accounts

A. Only those persons who have a wagering account with an account wagering center shall be permitted to wager

through account wagering. An account may be established at an account wagering center, at a racetrack or off-track wagering facility within the state, by mail, or by other means approved by the commission.

B. The licensee shall accept accounts in the name of a natural person only. The licensee shall not accept any corporate, partnership, limited liability company, joint, trust, estate, beneficiary or custodial account. The account is nontransferable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:691 (May 2001).

§12021. Account Holder-s Responsibilities

A. Wagering accounts are for the personal use of the account holder. Account holders are responsible for all bets placed through their accounts by any person using the account. The account holder bears full responsibility for maintaining the secrecy of his/her account number and confidential identification code.

B. Except as otherwise set forth herein, no person shall in any manner place any account wager on behalf of an account holder, or otherwise directly or indirectly act as an intermediary, transmitter or agent in the placing of wagers for an account holder. The licensee is not prohibited from conducting account wagering through employees or agents. Nothing in §12021 is intended to prohibit the use of credit or debit cards or other means of electronic funds transfer, or the use of checks, money orders or negotiable orders of withdrawal.

C. Neither the licensee nor any officer, director, employee or agent of the licensee shall be responsible for any loss arising from the use of or access to a wagering account by any person or persons other than the account holder, except where the licensee or its employees or agents act without good faith or fail to exercise ordinary care. The account holder must immediately notify the account wagering center of a breach of the account-s security.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:691 (May 2001).

§12023. Minors Prohibited

A. No person below the age of 18 shall be permitted to open an account or place a wager, directly or indirectly, through account wagering.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:691 (May 2001).

§12025. Others Prohibited

A. No officer, director or employee of any firm, entity or agency which is retained by the licensee with responsibility for the operation or maintenance of the account wagering system or of the account wagering center shall be permitted to place a wager, directly or indirectly, through the licensee-s system of account wagering.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:691 (May 2001).

§12027. Opening Wagering Account

A. An applicant for a wagering account shall make application in writing on the appropriate form supplied by the licensee at an account wagering center, at a racetrack or off-track wagering facility within the state, by mail, or by other means approved by the commission. The applicant shall provide his/her full name, current address and telephone number, social security number, and such additional information as the licensee may require. It is the account holder's responsibility to keep his/her mailing address current with the account wagering center. The application shall be signed by the applicant or otherwise authorized in a manner acceptable to the commission. Applicants must state in their application whether they are below the age of 18.

B. Each account shall have a unique identification account number (and such other methods of identification as the licensee may require). Such number may be changed at any time provided the licensee informs the account holder in writing of the change.

C. At the time of applying for an account, each applicant shall select a confidential identification code to be used as further identification when wagering. Both the licensee and the account holder have the right to change this code at any time without explanation by informing the other party in writing of such change and the effective date thereof.

D. An account holder shall receive at the time the account is opened a unique identification account number; an identification card; a summary of the rules; an explanation of the procedures then in force for depositing to, withdrawing from and closing the account; a telephone number to be utilized by the account holder; a description of the mechanics of wagering; and such other information as the licensee or commission may deem appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:692 (May 2001).

§12029. Deposits and Withdrawals

A. Deposits to and withdrawals from existing accounts shall be permitted in such form and by such procedures as the licensee may require, provided that any requirements set forth in these rules shall be included therein.

B. Deposits made to a wagering account may be made as follows.

1. Deposits made to a wagering account by the account holder shall be submitted or mailed by the account holder to the staff or agents of the licensee at such locations and addresses as the licensee may designate from time to time, and shall be in the form of one of the following:

- a. cash given to the staff at an account wagering center, or a racetrack or off-track wagering facility within the state; or
- b. check, money order or negotiable order of withdrawal; or
- c. charges made to an account holder's credit or debit card or other means of electronic funds transfer, upon the direct and personal instruction of the account holder, which may be given by telephone or other electronic device

(or other means approved by the commission) to the licensee by the account holder if the use of the card or other means of funds transfer has been approved by the account wagering center.

2. Credit for winnings from wagers placed with funds in a wagering account, credit for account wagers on horses that are scratched, and other payments or refunds to which the account holder is entitled shall be posted to the account by the account wagering center.

3. The account wagering system shall not accept wagers or information assisting in the placement of wagers in excess of the amount posted to the credit of an account at the time the wager is placed.

C. Debits to a wagering account may be made as follows.

1. Upon receipt by a licensee of a wager or information assisting in the placement of wagers properly placed under applicable statutes and the *Rules of Racing*, the licensee shall debit the account holder's account in the amount of the wager.

2. A licensee may authorize a withdrawal from a wagering account when one of the following exists.

a. The holder of a wagering account applies in person at an account wagering center, or a racetrack or off-track wagering facility within the state, and provides proper identification, the correct personal identification account number, and a properly completed and signed withdrawal form.

b. The account holder has authorized the licensee to make such a withdrawal. Where there are sufficient funds in the account to cover the withdrawal, the account wagering center shall, within five business days of receipt, send a check to the account holder at the current address on record for the wagering account. The check shall be payable to the holder of the account and in the amount of the requested withdrawal, subject to compliance with the *Rules of Racing*, the licensee's rules, and federal and state laws (including but not limited to compliance with federal rules concerning the reporting or withholding of federal income tax). If funds are not sufficient to cover the withdrawal, or the full amount requested is otherwise not being sent, the account holder will be notified in writing and those funds in the account, subject to compliance with the *Rules of Racing*, the licensee's rules, and federal and state laws, will be withdrawn and sent to the account holder within five business days. Electronic transfers may be used for withdrawals in lieu of a check at the discretion of the account holder and the account wagering center.

3. A licensee may debit an account for fees for service or other transaction-related charges.

D. Checks offered for deposit shall not be posted to the credit of the account holder until the hold period established by the licensee has elapsed. Holding periods will be determined by the licensee and advised to the account holder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:692 (May 2001).

§12031. Deceased Account Holder

A. In the event an account holder is deceased, funds accrued in the account shall be released to the decedent's

legal representative upon receipt of a copy of a court order or judgment of possession.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:692 (May 2001).

§12033. Licensee's Rights and Responsibilities

A. Notwithstanding any other rules, the licensee, through its managing employee of the account wagering center, or other employee or agent designated by the licensee, shall have the following rights and responsibilities.

1. The licensee has the right to refuse the establishment or maintenance of accounts for what it deems good and sufficient reason.

2. The licensee has the right to refuse deposits to accounts for what it deems good and sufficient reason.

3. The licensee has the right at any time to refuse to accept all or part of any wager for what it deems good and sufficient reason.

4. The licensee has the right at any time to declare the account wagering system closed for receiving wagers on any pari-mutuel pool, race, group of races, or closed for all wagering.

5. The licensee has the right to suspend or close any account at any time. When an account is closed, the licensee shall, within five business days, return to the account holder such monies as are on deposit at the time of said action, subject to compliance with the *Rules of Racing*, the licensee's rules, and federal and state laws, by sending a check to the account holder's current address.

6. The licensee has the right to close any account when the holder thereof attempts to operate with an insufficient balance or when the account is dormant for a period established by the licensee. In either case, the licensee shall refund the remaining balance of the account, subject to compliance with the *Rules of Racing*, the licensee's rules, and federal and state laws.

7. No employee or agent of the licensee employed or engaged at the account wagering center shall divulge any confidential information related to the placing of any wager or any confidential information related to the operation of the account wagering center, except to the account holder or the commission, as required by these rules, and as otherwise required by federal or state law, or the *Rules of Racing*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:693 (May 2001).

§12035. Account Operations and Procedures

A. Account wagers shall be accepted during such times and on such days as designated by the licensee, subject to state law.

B. The account holder shall provide the licensee with the correct personal identification account number previously assigned by the licensee to the holder of the wagering account, as well as the account holder's confidential identification code.

C. Any account wagering system must provide for the account holder's review and finalization of a wager or information assisting in the placement of a wager before it is accepted by the licensee. The wager shall not be changed

after the account holder has reviewed and finalized the wager, and the conversation or wagering transaction has been concluded.

D. Payment on winning account wagers shall be posted as a credit to the account of the account holder as soon as practicable after the race is declared official.

E. No licensee may accept an account wager, or series of account wagers, in an amount in excess of funds on deposit in the account of the account holder placing the wager. Funds on deposit include amounts credited and in the account at the time the account wager or account wagers are placed. Account wagers will not be accepted which would exceed the available balance in the account.

F. When an account holder is entitled to a payout or refund, such monies will be credited to the respective accounts, thus increasing the credit balance. It is the responsibility of the account holder to verify proper credits and, if in doubt, notify the licensee within the agreed upon time frame for consideration. Unresolved disputes may be forwarded to the commission by the licensee or the account holder. No claim will be considered by the commission unless submitted in writing and accompanied by supporting information or evidence.

G. Monies deposited with the licensee for account wagering shall not bear any interest to the account holder.

H. The licensee shall maintain equipment capable of recording all wagering conversations and transactions conducted through the account wagering system. The recording device must be used at all times when wagering communications are received.

I. For wagers made by voice telephone, the licensee shall make a voice recording of the entire transaction and shall not accept any such wager if the voice recording system is inoperable. The voice recording of the transaction shall be deemed to be the actual wager, regardless of what was recorded by the pari-mutuel system.

J. All wagering conversations, transactions or other wagering communications through the account wagering system, verbal or electronic, shall be recorded by means of the appropriate electronic media, and the tapes or other records of such communications kept by the account wagering center for a period of time which the commission may establish. These tapes and other records shall be made available to commissioners, employees and/or designees of the commission in accordance with the *Rules of Racing*.

K. The address provided in writing by the account holder to the account wagering center is deemed to be the proper address for the purposes of mailing checks, account statements, account withdrawals, notices, or any other appropriate correspondence. It is the account holder's responsibility to maintain a current address of record with the account wagering center. The mailing of checks or other correspondence to the address given by the account holder shall be at the sole risk of the account holder.

L. The account wagering center shall, from time to time, but not less than once per year, provide written statements of account activity during the period to all account holders. In addition, an account holder has the right to request and be provided a statement at any time. Unless written notice to the contrary is received by the licensee within 30 days of the date that any such statement is rendered to an account

holder, said statement shall be deemed accepted as correct in any and all particulars.

M. Subject to commission approval, the licensee may implement procedures for the use of wagering accounts for wagering while at facilities in this state where pari-mutuel wagering is permitted and for wagering by any other electronic means.

N. The commission may review and audit the account wagering systems equipment configuration and account wagering center. Any telephone communications system, whether touch tone, voice response, or operator controlled, and all other electronic media utilized for account wagers, shall be linked to a totalizer system in a manner approved by the commission. For the purposes of account wagering, totalizer equipment utilized by or linked to the licensee shall be capable of accounting for all wagering and other transactions which may affect customer accounts. The licensee must maintain complete records of every deposit, withdrawal, wager, refund and winning payout for each account. These records shall be made available to the commission in accordance with the *Rules of Racing*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2 and R.S. 4:149.5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 27:693 (May 2001).

Charles A. Gardiner III
Executive Director

0105#032

RULE

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School Administrators CHigh School Credit for College Courses (LAC28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The amendment removes restrictions that prevent students from receiving dual enrollment credit while in high school.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations
§ 901. School Approval Standards and Regulations**

A. Bulletin 741

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education LR 26:635 (April 2000), LR 26:1260 (June 2000), LR 26:1260-1261 (June 2000), LR 27:694 (May 2001).

Bulletin 741C Louisiana Handbook for School Administrators CHigh School Credit for College Courses (Applies to students attending college part time)

2.105.43 Repealed

2.105.44 Repealed

2.105.45 Repealed

2.105.46 The principal of the high school shall approve the advanced offering to be pursued by the student in college.

2.105.47 The student shall meet the entrance requirements established by the college.

2.105.48 The student shall earn at least two or three college hours of credit per semester. A course consisting of at least two college hours shall be counted as no more than one unit of credit toward high school graduation.

2.105.49 The high school administrator shall establish a procedure with the college to receive reports of the student's class attendance and performance at six- or nine- week intervals.

2.105.50 College courses shall be counted as high school subjects for students to meet eligibility requirements to participate in extracurricular activities governed by voluntary state organizations.

Students may participate in college courses and special programs during regular or summer sessions. High school credit for summer courses is subject to Standards 2.105.46 - 2.105.50.

**High School Credit for College Courses
in Vocational Education (Applies to students
attending college part time)**

2.105.59 The student shall meet the entrance requirements established by the college.

The principal of the school shall approve the advanced offering to be taken by the student in college.

The high school administrator shall establish a procedure with the college to receive reports of the student's class attendance and performance at six or nine-week intervals.

The awarding of the Carnegie units of credit will be in accordance with individual program requirements as stated in Bulletin 741.

Weegie Peabody
Executive Director

0105#029

RULE

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School Administrators CHigh School Graduation Requirements (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 741, referenced in LAC 28:I.901A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The first cohort of students to take the GEE 21 (2000-2001 first-time tenth graders, or the class of 2003) must pass the

English Language Arts and Mathematics portions of GEE 21 to be eligible for a standard high school diploma. The second cohort of students to take the GEE 21 (2001-2002 first-time tenth graders, or the class of 2004) must pass the English Language Arts and Mathematics portions of GEE 21, along with either the Science or Social Studies portions to be eligible for a standard high school diploma.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education LR 26:635 (April 2000), LR 26:1260 (June 2000), LR 26:1260-1261 (June 2000), LR 27:695 (May 2001).

Standard 2.099.00

2.099.00 In addition to completing a minimum of 23 Carnegie units of credit, the student shall also be required to pass the Graduation Exit Examination (GEE), beginning with the 1991 graduating class. This requirement shall first apply to students classified as sophomores in 1988-89 and thereafter.

The English Language Arts, Writing, and Mathematics components of the GEE shall first be administered to students in the tenth grade. Beginning in spring 2001 the English Language Arts and Mathematics components of the Graduation Exit Examination for the 21st Century (GEE 21) shall first be administered to students in the tenth grade.

The Science and Social Studies components of the graduation test shall first be administered to students in the eleventh grade. Beginning in spring 2002 the Science and Social Studies components of the Graduation Exit Examination for the 21st Century (GEE 21) shall first be administered to students in the eleventh grade.

Effective for the 2000-2001 school year, in addition to completing a minimum of 23 Carnegie units of credit, first-time tenth graders must pass the English Language Arts and Mathematics portions of the test of GEE 21 to earn a standard high school diploma. Effective for the 2001-2002 school year and thereafter, in addition to completing a minimum of 23 Carnegie units of credit, first-time tenth graders must pass the English Language Arts and Mathematics portions of the test and either the Science or Social Studies portions of GEE 21 to earn a standard high school diploma.

Remediation and retake opportunities will be provided for students that do not pass the test.

Effective for incoming freshman 2000-2001, a student may apply a maximum of two Carnegie units of elective credit toward high school graduation by successfully completing specially designed courses for remediation.

Effective for the 2000-2001 school year, a maximum of one Carnegie unit of elective credit may be applied toward meeting high school graduation requirements by an eighth grade student who has scored at the *Unsatisfactory*

achievement level on either the English Language Arts and/or the Mathematics component(s) of the eighth grade LEAP 21 provided the student:

1. participated in a transitional program on a traditional high school campus;
2. successfully completed specially designed elective(s) for remediation;
3. scored at or above the *Basic* achievement level on those component(s) of the eighth grade LEAP 21 for which the student previously scored at the *Unsatisfactory* achievement level.

A student may apply a maximum of two Carnegie units of elective credit toward high school graduation by:

1. earning one elective credit through remediation for eighth grade LEAP 21 and or one elective credit through GEE 21 remediation; or
2. earning two elective credits through GEE 21 remediation.

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Executive Director

0105#030

RULE

Board of Elementary and Secondary Education

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

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). Act 478 of the 1997 Regular Legislative Session called for the development of an accountability system for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The state's accountability system is an evolving system with different components. The amendment more clearly explains and refines the existing policy as it pertains to Paired/Shared status of schools during the accountability cycles and the awarding of bonus points to a school's CRT Index for fourth graders who receive a score of Approaching Basic or above on LEAP 21 for which he/she was unsuccessful the previous spring.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education, LR 26:635 (April 2000), LR 26:1260 (June 2000), LR 26:1260 (June 2000), LR 27:695 (May 2001).

**Bulletin 741C Louisiana Handbook for School
Administrators C The Louisiana School and District
Accountability System**

School Performance Scores

2.006.03 School Performance Scores for K-8

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

For the first accountability cycle, the baseline SPS shall be calculated using CRT and NRT scores from spring 1999 and the prior year's attendance and dropout data. The comparison SPS shall be calculated using CRT and NRT scores from spring 2001 and the prior year's attendance and dropout data. Beginning the second cycle, every year of student data shall be used as part of a school's SPS. Calculations of the SPS shall use the following:

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

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

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

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

A score for regular education students, including gifted, talented, speech or language impaired, and Section 504 students.

A score including regular education students AND students with disabilities eligible to participate in the CRT and/or NRT tests.

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

Formula for Calculating an SPS [K-8]			
The SPS for a sample school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example,			
$[(66.0 * 60\%) + (75.0 * 30\%) + (50.0 * 10\%)] = 67.1$			
Indicator	Index Value	Weight	Indicator Score
CRT	66.0	60%	39.6
NRT	75.0	30%	22.5
Attendance	50.0	10%	5.0
Dropout	N/A	0%	0
<i>SPS = 67.1</i>			

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

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

If, during spring testing, a fourth grade student receives a score of Approaching Basic or above on a LEAP 21 test of mathematics or English language arts for which he/she received a score of Unsatisfactory the previous spring; the retaining school shall receive 50 bonus points per subject in its CRT index. A student may earn a maximum of 100 bonus points for his/her school. (No bonus points will be given for passing parts of tests in the summer school of the year he/she first failed in spring testing.)

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

- retained on the 8th grade campus
- must retake all parts of the 8th Grade LEAP 21

If, during spring testing, a student receives a score of Approaching Basic or above on a LEAP 21 test of mathematics or English language arts for which he/she received a score of Unsatisfactory the previous spring; the retaining school shall receive 50 bonus points per subject in its accountability index. A student may earn a maximum of 100 bonus points for his/her school. (No bonus points for passing parts of tests in the summer school of the year they first failed in spring testing.)

Initial Transition Years [K-8]	
To accommodate the phase-in of Social Studies and Science tests for K-8 schools, the following CRT scores shall be used for each year:	
1999 Baseline CRT Score	1999 Math & English Language Arts (Grades 4 & 8)
2001 Comparison CRT Score	2000 & 2001 Math & English Language Arts (both years averaged for each subject and each grade)
2001 New Baseline CRT Score	2000 & 2001 Math, English, Social Studies, and Science (both years averaged for each subject and each grade)
2002 Comparison CRT Score	2000 & 2001 Math, English, Social Studies, and Science (both years averaged for each subject and each grade)

Scores	Studies, and Science (both years averaged for each subject and each grade)
This re-averaging shall result in a re-calculated baseline to include science and social studies for K-8 schools in 2001.	

Norm-Referenced Tests (NRT) Index Calculations [K-8]

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

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

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

Formula for Calculating a School's NRT Index [K-8]

- Calculate the index for each student, using the grade-appropriate formula relating standard score to NRT Index.
- Zero shall be the lowest NRT Index score reported for accountability calculations.
- Compute the total number of index points in all grades in the school.
- Divide the sum of NRT Index points by the total number of students eligible to be tested.

Attendance Index Calculations [K-8]

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

<i>Attendance Goals</i>		
	10-Year Goal	10-Year Goal
Grades K-8	95%	98%
Attendance Index Formulas		
Grades K-8		
Indicator (ATT K-8) = $(16.667 * ATT) - 1483.4$		
Where ATT is the attendance percentage, using the definition of attendance established by the Louisiana Department of Education		

Lowest Attendance Index Score

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

Dropout Index Calculations [7-8]

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

<i>Dropout Goals</i>		
	10-Year Goal	20-Year Goal
Grades 7 & 8	4%	2%

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

Dropout Index Formulas	
Non-Dropout Rate (NDO) = 100 - Dropout Rate (DO) (expressed as a percentage)	
Grades 7 & 8	Dropout Index (7-8) = Indicator (DO Gr 7-8) = $(25 * NDO) - 2300.0$ NDO = $(\text{Indicator DO Gr 7-8} + 2300.0) / 25$

Lowest Dropout Index Score

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

School Performance Scores for 9-12

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

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

calculations of the SPS shall use the most recent two years' test data, attendance and dropout rates from the two years prior to the last year of test data used, and the graduation index score.

Transition Years [9-12]								
To accommodate the phase-in of the grades 10 and 11 GEE 21 criterion-referenced tests and the graduation requirement, the following indicators shall be used for each year:								
Timelines/School Years			Indicators Included					
Cycle	Baseline SPS Data	Growth SPS Data	Grade 9 NRT	Grade 10 CRT	Grade 11 CRT	Attendance	Dropout	Graduation
1	2000-01	2002-03	✓	✓		✓*	✓*	
2	2001-02 & 2002-03 (avg.)	2003-04 & 2004-05 (avg.)	✓	✓	✓	✓*	✓*	
3	2003-04 & 2004-05 (avg.)	2005-06 & 2006-07 (avg.)	✓	✓	✓	✓*	✓*	✓*

*Indicates use of prior year data for these indexes.

Formula for Calculating an SPSCAccountability Cycle 1 [9-12]			
During the first accountability cycle, the SPS for a sample school shall be calculated by multiplying the index values for each indicator by the weight given to the indicator and adding the total scores. The formula is:			
$\text{SPS} = (.60 * \text{Grade 10 CRT Index}) + (.30 * \text{NRT Index}) + (.05 * \text{Dropout Index}) + (.05 * \text{Attendance Index})$			
All intermediate results and the final result shall be rounded to the nearest tenth.			
The following is an example of how this shall be done:			
$[(.60 * 66.0) + (.30 * 75.0) + (.05 * 50.0) + (.05 * 87.5)] = 69.0$			
Indicator	Index Value	Weight	Indicator Score
CRT—Grade 10	66.0	60%	39.6
NRT	75.0	30%	22.5
Attendance Index	50.0	5%	2.5
Dropout Index	87.5	5%	4.4
SPS			69.0

Formula for Calculating an SPSCAccountability Cycle 2 [9-12]			
During the second accountability cycle, the SPS for a sample school shall be calculated by multiplying the index values for each indicator by the weight given to the indicator and adding the total scores. The formula is:			
$\text{SPS} = (.30 * \text{Grade 10 CRT Index}) + (.30 * \text{Grade 11 CRT Index}) + (.30 * \text{NRT Index}) + (.05 * \text{Dropout Index}) + (.05 * \text{Attendance Index})$			
In this example,			
$[(.30 * 66.0) + (.30 * 60.0) + (.30 * 75.0) + (.05 * 50.0) + (.05 * 87.5)] = 67.2$			
Indicator	Index Value	Weight	Indicator Score
CRT—Grade 10	66.0	30%	19.8

CRT—Grade 11	60.0	30%	18.0
NRT	75.0	30%	22.5
Attendance Index	50.0	5%	2.5
Dropout Index	87.5	5%	4.4
SPS			67.2

Formula for Calculating an SPS Accountability Cycle 3 and Beyond [9-12]

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

$$\text{SPS} = (.25 * \text{Grade 10 CRT Index}) + (.25 * \text{Grade 11 CRT Index}) + (.20 * \text{NRT Index}) + (.20 * \text{Graduation Index}) + (.05 * \text{Dropout Index}) + (.05 * \text{Attendance Index})$$

In the example,

$$[(.25 * 66.0) + (.25 * 60.0) + (.20 * 75.0) + (.20 * 110.0) + (.05 * 50.0) + (.05 * 87.5)] = 76.4$$

Indicator	Index Value	Weight	Indicator Score
CRT—Grade 10	66.0	25%	16.5
CRT—Grade 11	60.0	25%	16.0
NRT	75.0	20%	15.0
Attendance Index	50.0	5%	2.5
Dropout Index	87.5	5%	4.4
Graduation Index	110.0	20%	22.0
SPS			76.4

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

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

NRT Goals and Equivalent Standard Scores for Grade 9

Goal	Percentile Rank	Grade 9 Composite Standard Score
10-Year Goal	55 th	264
20-Year Goal	75 th	288

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

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

$$\begin{aligned} \text{Index 9}^{\text{th}} \text{ grade} &= (2.083 * \text{SS}) - 449.9 \\ \text{SS} &= (\text{Index 9}^{\text{th}} \text{ grade} + 449.9) / 2.083 \end{aligned}$$

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

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

If, during spring testing, a student receives a score of Approaching Basic or above on a LEAP 21 test of mathematics or English language arts for which he/she received a score of Unsatisfactory the previous spring; the high school shall receive 50 bonus points per subject in its accountability index. A student may earn a maximum of 100 bonus points for his/her school.

Criterion-Referenced Tests (CRT) Index Calculations [9-12]

A high school's CRT Index score at each grade equals the sum of the eligible student totals divided by the number of students eligible to participate in state assessments. For the CRT Index, each student who scores within one of the following five levels shall receive the number of points indicated.

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

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

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

Example 1 CGrade 9:

- Before beginning grade 9, a class has 50 students; by the end of September, 45 remain in the class. The grade 9 dropout rate is:

$$(5/50) = .100$$

- The number of points earned on the NRT is 5000.
- The raw achievement index is:

$$5000/45 = 111.1$$

- The adjusted achievement index is:

$$111.1 \times (1 - .100) = 100.0$$

Example 2 CGrade 10:

- Another 5 students drop before October of grade 10. The grade 10 dropout rate is:

$$5/45 = .111$$

- The 40 students remaining in the class earn 10000 points on the two CRT tests. The raw achievement index is:

$$10000/(40 * 2) = 125.0$$

- The adjusted achievement index is:

$$125.0 \times (1 - .100) \times (1 - .111) = 100.0$$

Attendance Index Calculations for Grades 9-12

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

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

Attendance Index Formula for Grades 9-12

Where the 10-Year and 20-Year Goals are 93% and 96% average attendance respectively and where ATT = attendance percentage using the definition of attendance established by the Department of Education, the attendance index is calculated as follows:

Indicator (ATT 9-12) = (16.667 * ATT) – 1450.0

Example:

- If the average attendance percentage is 94.3%, the Attendance Index would be
-

(16.667 * 94.3) - 1450.0 = 121.7

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

Dropout Index Calculations for Grades 9-12		
A Dropout Index score for each high school shall be calculated. The initial year's index shall be calculated from the prior year's dropout rates. Subsequent years' indexes shall be calculated using the prior two years' average dropout rates as compared to the state goals.		
Dropout Goals		
	10-Year Goal	20-Year Goal
Grades 9-12	7%	3%

Dropout Index Formula for Grades 9-12

Dropout Index = 187.5 – (12.5 X dropout rate)

Example:

- If the dropout rate is 4.5%, the Dropout Index would be
-

187.5 – (12.5 * 4.5) = 131.3

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

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

Graduation Index Calculations for Grades 9-12		
Beginning with the first baseline year (2003-04) of accountability cycle 3, a Graduation Index score for each high school shall be calculated. The Graduation Index shall be based on the prior year's data, including students who graduated in December, May, and during the summer.		
Graduation Goals		
	10-Year Goal	20-Year Goal
Grades 9-12	25% (on average) of regular education students earning diploma enhancement	50% (on average) of regular education students earning diploma enhancement

The Graduation Index score equals the sum of the student totals based on points awarded for graduation-related results, divided by the number of students eligible to participate. The number of students eligible is calculated by adding the grade 12 enrollment reported on October 1 plus the number of students who dropped during the summer prior to their senior year. The number of points awarded for graduation-related results are:

Diploma	Points
Under discussion	TBD
Recovered Dropouts (those through age 21 who had dropped out of school prior to age 18 and for more than one year and who now receive some type of diploma)	Points noted above for type of diploma plus 100 points

Formula for Calculating the Graduation Index for a High School

1. Calculate the total number of points by multiplying the number of students at each graduation-related result times the number of points for those respective results.
2. Divide by the total number of students eligible (the October 1 grade 12 enrollment plus students who dropped out during the summer prior to their senior year).
3. Zero shall be the lowest Graduation Index score reported for accountability calculations.

Pairing/Sharing of Schools with Insufficient Test Data

2.006.15 In order to receive an SPS, a given school must have at least one grade level of CRT testing and at least one grade level of NRT testing. A school that does not meet this requirement must either be paired or shared with another school in the district as described below. For the purpose of the Louisiana Accountability System, such a school shall be defined as a non-standard school.

A school with a grade-level configuration such that it participates in neither the CRT nor in the NRT (e.g., a K, K-1, K-2 school) must be paired with another school that has at least one grade level of CRT testing and one grade level of NRT testing. This pairing means that a single SPS shall be calculated for both schools by averaging both schools' attendance and/or dropout data and using the test score data derived from the school that has at least two grade levels of testing.

A school with a grade-level configuration where students participate in either CRT or NRT testing, but not both (e.g., a K-3, 5-6 school), must share with another school that has at least one grade level of the type of testing missing. Both schools shall share the missing grade level of test data. This shared test data must come from the grade level closest to the last grade level in the non-standard school. The non-standard school's SPS shall be calculated by using the school's own attendance, dropout, and testing data AND the test scores for just one grade from the other school.

A district must identify the school where each of its non-standard schools shall be either paired or shared. The paired or shared school must be the one that receives by promotion the largest percentage of students from the non-standard school. In other words, the paired or shared school must be the school into which the largest percentage of students feed. If two schools receive an identical percentage of students from a non-standard school, the district shall select the paired or shared school.

If a school is not paired/shared at the beginning of Cycle 1, it shall not be paired/shared at the end of Cycle 1.

Beginning with Cycle 2, requirements for the number of test units shall be the sum of the test units over a two-year period (not the number of test units in one year). Beginning with Cycle 2, a school's sharing/pairing status at the beginning of the cycle shall be its status at the end of the cycle.

If a school has too few test units to be a standalone school, it may request to be considered standalone. It shall receive an SPS that is calculated solely on that school's data, despite the small number of test units. The request shall be in writing to the Department from the LEA superintendent. The school forfeits any right to appeal its growth status based on minimum test unit counts.

Once the identification of paired or shared schools has been made, this decision is binding for 10 years. An appeal to SBESE may be made to change this decision prior to the end of 10 years, when redistricting or other grade configuration and/or membership changes occur.

Weegie Peabody
Executive Director

0105#028

RULE

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

Tuition Opportunity Program for Students
(TOPS) Eligibility (LAC 28:IV.703)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended rules of the Tuition Opportunity Program for Students (TOPS) (R.S. 17:3042.1 and R.S. 17:3048.1).

**Title 28
EDUCATION**

**Part IV. Student Financial Assistance
Higher Education Scholarship and Grant Programs
Chapter 7. Tuition Opportunity Program for Students (TOPS) Opportunity; Performance and Honors Awards**

§703. Establishing Eligibility

- A. - A.5.a.i. ...
- ii. for purposes of satisfying the requirements of §703.A.5.a.i., above, or §803.A.6.a., the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses:

Core Curriculum Course	Equivalent (Substitute) Course
Physical Science	General Science, Integrated Science
Algebra I	Algebra I, Parts 1 and 2
Applied Algebra IA and IB	Applied Mathematics I and II
Algebra I, Algebra II and Geometry	Integrated Mathematics I, II and III
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III*
Chemistry	Chemistry Com
Fine Arts Survey	Speech Debate (2 units)
Western Civilization	European History

*Applied Mathematics III was formerly referred to as Applied Geometry

A.5.a.iii. - G.2. ...
AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 25:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1998 (September 2000), LR 26:2268 (October 2000), LR 27:702 (May 2001).

Mark S. Riley
Assistant Executive Director

0105#036

RULE

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

Correct Organization Citations
Resulting from Reengineering of DEQ
(LAC 33:VII)(OS036)

Editor's Note: The following sections of OS036, which was published as a Rule on pages 2439-2608 of the November 20, 2000, *Louisiana Register*, are being republished to correct a submittal location for certain Solid Waste annual reports. The original rule listed the Office of Environmental Services, Environmental Assistance Division as the location to submit these reports. The correct location is the Office of Management and Finance, Financial Services Division. This change is being made in portions of the Solid Waste Regulations, LAC 33:VII, of rule OS036.

**Title 33
ENVIRONMENTAL QUALITY
Part VII. Solid Waste
Subpart 1. Solid Waste Regulations
Chapter 3. Scope and Mandatory Provisions of the Program**

§303. Wastes Not Subject to the Permitting Requirements or Processing or Disposal Standards of These Regulations

The following solid wastes, that are processed or disposed of in an environmentally sound manner are not subject to the permitting requirements or processing or disposal standards of these regulations:

* * *

[See Prior Text in A - J.1]

2. the generator must submit to the Office of Management and Finance, Financial Services Division a disposer annual report in accordance with the standards in LAC 33:VII.1109, which reports amounts of woodwastes beneficially used at each site;

* * *

[See Prior Text in K - L]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 24:2250 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2515 (November 2000), repromulgated LR 27:703 (May 2001).

§305. Facilities Not Subject to the Permitting Requirements or Processing or Disposal Standards of These Regulations

The following facilities that are operated in an environmentally sound manner are not subject to the permitting requirements or processing or disposal standards of these regulations:

* * *

[See Prior Text in A - D.1]

2. the facility must submit to the Office of Management and Finance, Financial Services Division a disposer annual report in accordance with the standards for construction/demolition-debris disposal facilities found in LAC 33:VII.721;

* * *

[See Prior Text in E - H.1]

2. the facility must submit to the Office of Management and Finance, Financial Services Division a disposer annual report in accordance with the standards for woodwaste disposal facilities in LAC 33:VII.721;

* * *

[See Prior Text in H.3 - I.4]

5. the facility must submit to the Office of Management and Finance, Financial Services Division a disposer annual report which accurately estimates volumes of waste disposed in accordance with the standards for woodwaste disposal facilities found in LAC 33:VII.721; and

* * *

[See Prior Text in I.6 - J]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1264 (June 2000), LR 26:2609 (November 2000), repromulgated LR 27:703 (May 2001).

**Chapter 7. Solid Waste Standards
Subchapter A. General Standards
§701. Standards Governing Industrial Solid Waste Generators**

A. Annual Reports

1. Generators of industrial solid waste shall submit annual reports to the Office of Management and Finance, Financial Services Division listing the types and quantities, in wet-weight tons per year, of industrial solid waste they have disposed of off site.

* * *

[See Prior Text in A.2-3]

4. The report shall be submitted to the Office of Management and Finance, Financial Services Division by August 1 of each reporting year.

* * *

[See Prior Text in A.5 - B.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2521 (November 2000), repromulgated LR 27:703 (May 2001).

Subchapter B. Landfills, Surface Impoundments, Landfarms

§ 711. Standards Governing Landfills (Type I and II)

[See Prior Text in A - C.1.a]

i. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. The annual report shall also indicate the estimated remaining permitted capacity at the facility as of the end of the reporting period (expressed in wet-weight tons). All calculations used to determine the amounts of solid waste received for disposal during the annual-reporting period and to determine remaining capacity shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Management and Finance, Financial Services Division or through the department's website at www.deq.state.la.us.

[See Prior Text in C.1.a.ii - F.3.d]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2523 (November 2000), repromulgated LR 27:704 (May 2001).

§ 713. Standards Governing Surface Impoundments (Type I and II)

[See Prior Text in A - C.1.a]

i. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. If applicable, the annual report shall also indicate the estimated remaining permitted capacity at the facility as of the end of the reporting period (expressed in wet-weight tons). All calculations used to determine the amounts of solid waste received for disposal and to determine remaining capacity during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Management and Finance, Financial Services Division or through the department's website at www.deq.state.la.us.

[See Prior Text in C.1.a.ii - F.2.b.iv]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of

Environmental Assessment, Environmental Planning Division, LR 26:2524 (November 2000), repromulgated LR 27:704 (May 2001).

§ 715. Standards Governing Landfarms (Type I and II)

[See Prior Text in A - C.1.a]

i. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division indicating quantities and types of solid waste (expressed in wet-weight and dry-weight tons per year) received from in-state generators and from out-of-state generators during the reporting period. The annual report shall also indicate the estimated remaining permitted capacity at the facility as of the end of the reporting period (expressed in wet-weight tons). All calculations used to determine the amounts of solid waste received for disposal during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Management and Finance, Financial Services Division or the department's website at www.deq.state.la.us.

[See Prior Text in C.1.a.ii - F.3.b]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2525 (November 2000), repromulgated LR 27:704 (May 2001).

Subchapter C. Solid Waste Processors

§ 717. Standards Governing All Solid Waste Processors (Type I-A and II-A)

[See Prior Text in A - F.1.a]

i. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Management and Finance, Financial Services Division or the department's website at www.deq.state.la.us. The following applies to reports:

[See Prior Text in F.1 a.ii - I.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2526 (November 2000), LR 26:2610 (November 2000), repromulgated LR 27:704 (May 2001).

Subchapter D. Minor Processing and Disposal Facilities

§721. Construction and Demolition Debris and Woodwaste Landfills and Processing Facilities (Type III)

* * *

[See Prior Text in A - B.1.a]

i. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing or disposal during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Management and Finance, Financial Services Division or the department's website at www.deq.state.la.us.

* * *

[See Prior Text in B.1.a.ii - E.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20:1001 (September 1994), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2527 (November 2000), repromulgated LR 27:705 (May 2001).

§723. Composting Facilities (Type III)

* * *

[See Prior Text in A - B.1.a]

i. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Management and Finance, Financial Services Division or the department's website at www.deq.state.la.us.

* * *

[See Prior Text in B.1.a.ii - D.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20:1001 (September 1994), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2528 (November 2000), repromulgated LR 27:705 (May 2001).

§725. Separation and Woodwaste Processing Facilities (Type III)

* * *

[See Prior Text in A - B.1.a]

i. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division indicating quantities and types of solid waste (expressed in wet-weight tons per year), received from in-state generators and from out-of-state generators, during the reporting period. All calculations used to determine the amounts of solid waste received for processing during the annual-reporting period shall be submitted to the administrative authority. A form to be used for this purpose must be obtained from the Office of Management and Finance, Financial Services Division or the department's website at www.deq.state.la.us. The following applies to reports:

* * *

[See Prior Text in B.1.a.ii - D.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20:1001 (September 1994), LR 22:280 (April 1996), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2528 (November 2000), repromulgated LR 27:705 (May 2001).

Chapter 11. Beneficial-Use Facilities

§1109. Standards Governing Beneficial-Use Facilities

* * *

[See Prior Text in A - F.1.a]

i. The permit holder shall submit annual reports to the Office of Management and Finance, Financial Services Division indicating quantities and types of solid waste beneficially used, (expressed in wet-weight tons and dry-weight tons per year), during the reporting period. All calculations used to determine the amounts of solid waste received for processing or disposal during the annual reporting period shall be submitted to the administrative authority. A form for this purpose must be obtained from the Office of Management and Finance, Financial Services Division or the department's website at www.deq.state.la.us. The following standards apply to reports:

* * *

[See Prior Text in F.1.a.ii - H.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2536 (November 2000), repromulgated LR 27:40 (January 2001), LR 27:705 (May 2001).

James H. Brent, Ph.D.
Assistant Secretary

0105#087

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Small Quantity Generator Revisions
(LAC 33:V.Chapters 1, 3, 9, 11, 13, 15, 22,
30, 38, 39, 40, 41, 43, and 49)(HW075F)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste regulations, LAC 33:V.Chapters 1, 3, 9, 11, 13, 15, 22, 30, 38, 39, 40, 41, 43, and 49 (Log #HW075F).

This Rule makes Louisiana's classification and hazardous waste management requirements for small quantity generators equivalent to federal requirements. Louisiana's past classification system for small quantity generators of hazardous waste differed from the EPA small quantity generator classification system. The differences have resulted in confusion and unnecessary paperwork, with no environmental benefit. The basis and rationale for this Rule are to be equivalent to federal regulations.

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

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality Hazardous Waste

Chapter 1. General Provisions and Definitions

§105. Program Scope

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to the denial of a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706. Definitions appropriate to these rules and regulations, including "solid waste" and "hazardous waste," appear in LAC 33:V.109. Those wastes which are excluded from regulation are found in this Section.

* * *

[See Prior Text in A - D.5]

a. Except as provided in Subsection D.5.b of this Section, persons who generate or collect samples for the purpose of conducting treatability studies as defined in LAC 33:V.109 are not subject to any requirement of LAC 33:V.Chapters 9, 11, 13, or 49, or to the notification requirements of Subsection A of this Section, nor are such samples included in the quantity determinations of LAC 33:V.108 and 1109.E.7 when:

* * *

[See Prior Text in D.5.a.i - O.2.c.vi]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217 (March 1990), LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362 (April 1991), LR 17:368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813 (September 1996), LR 22:831 (September 1996), amended by the Office of the Secretary, LR 23:298 (March 1997), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:564 (May 1997), LR 23:567 (May 1997), LR 23:721 (June 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), LR 23:1511 (November 1997), LR 24:298 (February 1998), LR 24:655 (April 1998), LR 24:1093 (June 1998), LR 24:1687 (September 1998), LR 24:1759 (September 1998), LR 25:431 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:268 (February 2000), LR 26:2464 (November 2000), LR 27:291 (March 2001), LR 27:706 (May 2001).

§108. Special Requirements for Hazardous Waste Generated by Conditionally Exempt Small Quantity Generators

A. A generator is a conditionally exempt small quantity generator in a calendar month if he generates no more than 100 kg of hazardous waste in that month.

B. Except for those wastes identified in Subsections E, F, G, and J of this Section, a conditionally exempt small quantity generator's hazardous wastes are not subject to regulation under the notification requirements of LAC 33:V.105.A and Chapters 3 - 37, 41, 43, and 53, except for LAC 33:V.Chapter 31.Table 1, provided the generator complies with the requirements of Subsections F, G, and J of this Section.

C. When making the quantity determinations of this Section and LAC 33:V.Chapter 11, the generator must include all hazardous waste that it generates, except hazardous waste that:

1. is exempt from regulation under LAC 33:V.105.D.3-6 and 8, 109.Empty Container.1, and 4105.B; or

2. is managed immediately upon generation only in on-site elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities as defined in LAC 33:V.109; or

3. is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under LAC 33:V.4115.B; or

4. is used oil managed under the requirements of LAC 33:V.4105.E and Chapter 40; or

5. is spent lead-acid batteries managed under the requirements of LAC 33:V.4145; or

6. is universal waste managed under LAC 33:V.105.D.7 and Chapter 38.

D. In determining the quantity of hazardous waste generated, a generator need not include:

1. hazardous waste when it is removed from on-site storage; or
2. hazardous waste produced by on-site treatment (including reclamation) of its hazardous waste, so long as the hazardous waste that is treated was counted once; or
3. spent materials that are generated, reclaimed, and subsequently reused on-site, so long as such spent materials have been counted once.

E. If a generator generates acute hazardous waste in a calendar month in quantities greater than set forth below, all quantities of that acute hazardous waste are subject to full regulation under the notification requirements of LAC 33:V.105.A and LAC 33:V.Chapters 3 - 37, 41, 43, 51, and 53:

1. a total of one kg of acute hazardous wastes listed in LAC 33:V.4901.B, C, or E; or
2. a total of 100 kg of any residue or contaminated soil, waste, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous wastes listed in LAC 33:V.4901.B, C, or E.

[Comment: *Full regulation* means those regulations applicable to generators of greater than 1,000 kg of non-acutely hazardous waste in a calendar month.]

F. In order for acute hazardous wastes generated by a generator of acute hazardous wastes in quantities equal to or less than those set forth in Subsection E.1 or 2 of this Section to be excluded from full regulation under this Section, the generator must comply with the following requirements:

1. LAC 33:V.1103;
2. the generator may accumulate acute hazardous wastes on-site. If he accumulates at any time acute hazardous wastes in quantities greater than those set forth in Subsection E.1 or 2 of this Section, all of those accumulated wastes are subject to regulation under the applicable notification requirements of LAC 33:V.105.A and LAC 33:V.Chapters 3 - 37, 41, 43, 51, and 53. The time period of LAC 33:V.1109.E, for accumulation of wastes on-site, begins when the accumulated wastes exceed the applicable exclusion limit;
3. a conditionally exempt small quantity generator may either treat or dispose of its acute hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, either of which, if located in the United States, is:
 - a. permitted under 40 CFR 270, LAC 33:V.Chapters 3 - 7, or a RCRA approved hazardous waste program of any other state;
 - b. in interim status under 40 CFR 270 and 265, LAC 33:V.Chapters 3 - 7 and 43, or a RCRA approved hazardous waste program of any other state;
 - c. authorized to manage hazardous waste by a state with a hazardous waste management program approved under 40 CFR 271;
 - d. permitted, licensed, or registered by a state to manage municipal solid waste and, if managed in a municipal solid waste landfill, is subject to 40 CFR 258;
 - e. permitted, licensed, or registered by a state to manage nonmunicipal, nonhazardous waste and, if managed in a nonmunicipal, nonhazardous waste disposal unit after January 1, 1998, is subject to the requirements in 40 CFR 257.5 - 257.30; or

- f. a facility which:
 - i. beneficially uses or reuses, or legitimately recycles or reclaims, its waste; or
 - ii. treats its waste prior to beneficial use or reuse, or legitimate recycling or reclamation; or
- g. for universal waste managed under LAC 33:V.Chapter 38, a universal waste handler or destination facility subject to the requirements of 40 CFR 273 or LAC 33:V.Chapter 38.

G. In order for hazardous waste generated by a conditionally exempt small quantity generator in quantities of less than 100 kg of hazardous waste during a calendar month to be excluded from full regulation under this Section, the generator must comply with the following requirements:

1. LAC 33:V.1103;
2. the conditionally exempt small quantity generator may accumulate hazardous waste on-site. If it accumulates at any time more than a total of 1000 kg of its hazardous wastes, all of those accumulated wastes are subject to regulation under the special provisions of LAC 33:V.Chapter 11 applicable to generators of between 100 kg and 1000 kg of hazardous waste in a calendar month as well as the requirements of LAC 33:V.Chapters 3 - 9, 13 - 37, 41, 43, 51, and 53, and the applicable notification requirements of LAC 33:V.105.A. The time period of LAC 33:V.1109.E for accumulation of wastes on-site begins for a conditionally exempt small quantity generator when the accumulated wastes exceed 1000 kg; and
3. a conditionally exempt small quantity generator may either treat or dispose of his hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, either of which, if located in the United States, is:
 - a. permitted under 40 CFR 270, LAC 33:V.Chapters 3 - 7, or a RCRA approved hazardous waste program of any other state;
 - b. in interim status under 40 CFR 270 and 265, LAC 33:V.Chapters 3 - 7 and 43, or a RCRA approved hazardous waste program of any other state;
 - c. authorized to manage hazardous waste by a state with a hazardous waste management program approved under 40 CFR 271;
 - d. permitted, licensed, or registered by a state to manage municipal solid waste and, if managed in a municipal solid waste landfill, is subject to 40 CFR 258;
 - e. permitted, licensed, or registered by a state to manage nonmunicipal, nonhazardous waste and, if managed in a nonmunicipal, nonhazardous waste disposal unit after January 1, 1998, is subject to the requirements in 40 CFR 257.5 - 257.30; or
 - f. a facility that:
 - i. beneficially uses or reuses, or legitimately recycles or reclaims, its waste; or
 - ii. treats its waste prior to beneficial use or reuse, or legitimate recycling or reclamation; or
 - g. for universal waste managed under LAC 33:V.Chapter 38, a universal waste handler or destination facility subject to the requirements of 40 CFR 273, LAC 33:V.Chapter 38, or a RCRA approved hazardous waste program of any other state.

H. Hazardous waste subject to the reduced requirements of this Section may be mixed with nonhazardous waste and remain subject to these reduced requirements even though the resultant mixture exceeds the quantity limitations identified in this Section, unless the mixture meets any of the characteristics of hazardous waste identified in LAC 33:V.4903.

I. If any person mixes a solid waste with a hazardous waste that exceeds a quantity exclusion level of this Section, the mixture is subject to full regulation.

J. If a conditionally exempt small quantity generator's wastes are mixed with used oil, the mixture is subject to LAC 33:V.Chapter 40 if it is destined to be burned for energy recovery. Any material produced from such a mixture by processing, blending, or other treatment is also so regulated if it is destined to be burned for energy recovery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:706 (May 2001).

§109. Definitions

For all purposes of these rules and regulations, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise:

* * *

[See Prior Text]

Empty Container^C

1. a. any hazardous waste remaining in either of the following is not subject to regulation under LAC 33:V.Chapters 1-29, 31- 38, 43, 49, or to the notification requirements of LAC 33:V.105.A:

* * *

[See Prior Text in Empty Container.1.a.i - Sludge Dryer]

Small Quantity Generator^{Ca} a generator who generates less than 1000 kg of hazardous waste in a calendar month.

* * *

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:47 (January 1990), LR 16:218 (March 1990), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 19:626 (May 1993), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:655 (April 1998), LR 24:1101 (June 1998), LR 24:1688 (September 1998), LR 25:433 (March 1999), repromulgated LR 25:853 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:269 (February 2000),), LR 26:2465 (November 2000), LR 27:291 (March 2001), LR 27:708 (May 2001).

Chapter 3. General Conditions for Treatment, Storage, and Disposal Facility Permits

§303. Overview of the Permit Program

* * *

[See Prior Text in A - E]

1. Owners and operators of existing TSD facilities must submit Part I of their permit application requirements listed in LAC 33:V.515 to the administrative authority no later than 30 days after the date they first become subject to the permitting standards set forth in LAC 33:V.Subpart 1. Generators generating greater than 100 kg, but less than 1000 kg, of hazardous waste in a calendar month who treat, store, or dispose of these wastes on-site must submit a Part I RCRA permit application by March 24, 1987.

* * *

[See Prior Text in E.2 - Q]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 14:790 (November 1988), LR 16:220 (March 1990), LR 17:478 (May 1991), LR 17:658 (July 1991), LR 20:1000 (September 1994), LR 21:564 (June 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2466 (November 2000), LR 27:708 (May 2001).

§305. Scope of the Permit

* * *

[See Prior Text in A - C.1]

2. generators who accumulate hazardous waste in an environmentally sound manner, on-site for less than the time periods provided in LAC 33:V.1109.E;

* * *

[See Prior Text in C.3]

4. persons who own or operate facilities solely for the treatment, storage, or disposal of hazardous waste excluded from regulation under LAC 33:V.105.D or 108 (conditionally exempt small quantity generator exemption);

* * *

[See Prior Text in C.5 - H]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 17:658 (July 1991), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:944 (September 1995), LR 23:567 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1105 (June 1998), LR 24:1690 (September 1998), LR 24:1759 (September 1998), LR 25:435 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:708 (May 2001).

Chapter 9. Manifest System for TSD Facilities

§909. Unmanifested Waste Report

If a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest, or without an accompanying shipping paper as described in LAC 33:V.1307.E.2, and if the waste is not excluded from the manifest requirements by LAC 33:V.108, then the owner or operator must prepare and

submit a single copy of a report to the administrative authority within 15 days after receiving the waste. The unmanifested waste report must be submitted to the Office of Environmental Services, Environmental Assistance Division. Such report must be designated "Unmanifested Waste Report" and include the following information:

* * *

[See Prior Text in A - G]

[Comment: Small quantities of hazardous waste are excluded from regulation under LAC 33:V.Chapters 9, 15 -21, 23 - 29, and 31 - 37 and do not require a manifest. Where a facility receives unmanifested hazardous wastes, the department suggests that the owner or operator obtain from each generator a certification that the waste qualifies for exclusion. Otherwise, the department suggests that the owner or operator file an unmanifested waste report for the hazardous waste movement.]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 17:364 (April 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2469 (November 2000), LR 27:708 (May 2001).

Chapter 11. Generators

§1101. Applicability

* * *

[See Prior Text in A - H]

I. LAC 33:V.108.C and D must be used to determine the applicability of provisions of this Chapter that are dependent on calculations of the quantity of hazardous waste generated per month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:398 (May 1990), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 22:20 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:660 (April 1998), LR 24:1106 (June 1998), LR 24:1693 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:709 (May 2001).

§1107. The Manifest System

* * *

[See Prior Text in A - A.3]

4. The requirements of this Section do not apply to hazardous waste produced by generators of greater than 100 kg, but less than 1000 kg, in a calendar month where:

a. the waste is reclaimed under a contractual agreement pursuant to which:

i. the type of waste and frequency of shipments are specified in the agreement;

ii. the vehicle used to transport the waste to the recycling facility and to deliver regenerated material back to the generator is owned and operated by the reclaimer of the waste; and

b. the generator maintains a copy of the reclamation agreement in his files for a period of at least three years after termination or expiration of the agreement.

* * *

[See Prior Text in A.5 - D.6]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 12:319 (May 1986), LR 16:220 (March 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:1256 (November 1992), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:267 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2470 (November 2000), LR 27:42 (January 2001), LR 27:709 (May 2001).

§1109. Pre-Transport Requirements

* * *

[See Prior Text in A - E.6]

7. A generator who generates greater than 100 kg, but less than 1000 kg, of hazardous waste in a calendar month may accumulate hazardous waste on-site for 180 days or less without a permit or without having interim status provided that:

* * *

[See Prior Text in E.7.a]

b. the generator complies with the requirements of LAC 33:V.4438;

c. the generator complies with the requirements of LAC 33:V.1109.E.1.c and d; the requirements of LAC 33:V.Chapter 43.Subchapter B; and the requirements of LAC 33:V.2245.E;

* * *

[See Prior Text in E.7.d - d.iv.(c)(v)]

e. the quantity of waste accumulated on-site never exceeds 6000 kg.

8. A generator who generates greater than 100 kg, but less than 1000 kg, of hazardous waste in a calendar month and who must transport its waste, or offer its waste for transportation, over a distance of 200 miles or more for off-site treatment, storage, or disposal may accumulate hazardous waste on-site for 270 days or less without a permit or without having interim status provided that the generator complies with the requirements of Subsection E.7 of this Section.

9. A generator who generates greater than 100 kg, but less than 1000 kg, of hazardous waste in a calendar month and who accumulates hazardous waste in quantities exceeding 6000 kg or accumulates hazardous waste for more than 180 days (or for more than 270 days if the generator must transport his waste, or offer his waste for transportation, over a distance of 200 miles or more) is an operator of a storage facility and is subject to the requirements of LAC 33:V.Chapters 9, 15 - 21, 23 - 29, 31 - 37, 43, and 51 and the permit requirements of LAC 33:V.Chapters 3 - 7 unless the generator has been granted an extension to the 180-day (or 270-day if applicable) period. Such extension may be granted by the administrative authority if hazardous wastes must remain on-site for longer than 180 days (or 270 days if applicable) due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the administrative authority on a case-by-case basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 16:47 (January 1990), LR 16:220 (March 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998), LR 25:437 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1466 (August 1999), LR 26:277 (February 2000), LR 26:2470 (November 2000), LR 27:293 (March 2001), LR 27:709 (May 2001).

1111. Recordkeeping and Reporting

* * *

[See Prior Text in A - B.2]

C. Exception Reporting

1. A generator of greater than 1000 kg of hazardous waste in a calendar month who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days of the date the waste was accepted by the initial transporter must contact the transporter and/or the owner or operator of the designated facility to determine the status of the hazardous waste.

2. A generator of greater than 1000 kg of hazardous waste in a calendar month must submit an Exception Report to the Office of Environmental Services, Environmental Assistance Division if he has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter. The Exception Report must include:

* * *

[See Prior Text in C.2.a -b]

3. A generator of greater than 100 kg, but less than 1000 kg, of hazardous waste in a calendar month who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 60 days of the date the waste was accepted by the initial transporter must submit a legible copy of the manifest, with some indication that the generator has not received confirmation of delivery, to the Office of Environmental Services, Environmental Assistance Division.

NOTE: The submission to the administrative authority need only be a handwritten or typed note on the manifest itself, or on an attached sheet of paper, stating that the return copy was not received.

* * *

[See Prior Text in D]

E. Special Requirements for Generators of Between 100 and 1000 kg/month. A generator of greater than 100 kg, but less than 1000 kg, of hazardous waste in a calendar month is subject only to the following requirements in this Section:

1. Subsection A.1, 3, and 4 of this Section, recordkeeping;

2. Subsection C.3 of this Section, exception reporting; and

3. Subsection D of this Section, additional reporting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:220 (March 1990), LR 17:365 (April 1991), LR 20:1000 (September 1994), LR 20:1109 (October 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2470 (November 2000), LR 27:42 (January 2001), LR 27:710 (May 2001).

§1113. Exports of Hazardous Waste

* * *

[See Prior Text in A - G.1.d]

e. except for hazardous waste produced by exporters of greater than 100 kg, but less than 1000 kg, in a calendar month, unless provided in accordance with LAC 33:V.1111.B in even numbered years:

* * *

[See Prior Text in G.1.e.i - f]

2. Reports shall be sent to the administrative authority of the Louisiana Department of Environmental Quality.

[NOTE: This does not relieve the regulated community from the requirement of submitting annual reports in accordance with 40 CFR 262.56 to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting, and Data Division (2222A) Environmental Protection Agency, 1200 Pennsylvania Ave, Washington, DC 20460.]

* * *

[See Prior Text in H - I.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:220 (March 1990), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:944 (September 1995), LR 22:20 (January 1996), amended by the Office of the Secretary, LR 22:344 (May 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:661 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2471 (November 2000), LR 27:710 (May 2001).

Chapter 13. Transporters

§1307. The Manifest System

* * *

[See Prior Text in A - G.4]

H. A transporter transporting hazardous waste from a generator who generates greater than 100 kg, but less than 1000 kg, of hazardous waste in a calendar month need not comply with the requirements of this Section or those of LAC 33:V.1311 provided that:

1. the waste is being transported in accordance with a reclamation agreement as provided for in LAC 33:V.1107.A.4;

2. the transporter records, on a log or shipping paper, the following information for each shipment:

i. the name, address, and EPA identification number of the generator of the waste;

ii. the quantity of waste accepted;

iii. all DOT-required shipping information; and

iv. the date the waste is accepted;

3. the transporter carries this record when transporting waste to the reclamation facility; and

4. the transporter retains these records for a period of at least three years after termination or expiration of the agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:220 (March 1990), LR 18:1256 (November 1992), LR 20:1109 (October 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:666 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:710 (May 2001).

Chapter 15. Treatment, Storage, and Disposal Facilities

§1501. Applicability

* * *

[See Prior Text in A - C]

1. the owner or operator of a facility permitted, licensed, or registered to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation by LAC 33:V.108;

* * *

[See Prior Text in C.2 - H.13]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 18:1256 (November 1992), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 23:565 (May 1997), LR 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1106 (June 1998), LR 24:1694 (September 1998), LR 24:1759 (September 1998), LR 25:437 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1799 (October 1999), LR 26:277 (February 2000), LR 27:711 (May 2001).

Chapter 22. Prohibitions on Land Disposal

Subchapter A. Land Disposal Restrictions

§2201. Purpose, Scope, and Applicability

* * *

[See Prior Text in A - I.3]

4. waste generated by small quantity generators of less than 100 kg of nonacute hazardous waste or less than 1 kg of acute hazardous waste per month, as defined in LAC 33:V.108;

* * *

[See Prior Text in I.5 - 5.e]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:398 (May 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 21:266 (March 1995), LR 22:22 (January 1996), LR 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:300 (February 1998), LR 24:666 (April 1998), LR 24:1107 (June 1998), LR 24:1724 (September 1998), LR 24:1759 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1799 (October 1999), LR 27:711 (May 2001).

§2205. Storage of Prohibited Wastes

* * *

[See Prior Text in A]

1. A generator may store such wastes in tanks, containers, or containment buildings on-site solely for the

purpose of accumulating such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal and the generator complies with the requirements of LAC 33:V.1109.E, Chapters 9, 15, 17, 18, 19, 21, 23, 24, 25, 26, 27, 28, 29, 31, 32, 33, 35, 37, 43, and 51.

* * *

[See Prior Text in A.2 - H]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:220 (March 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1724 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1799 (October 1999), LR 26:280 (February 2000), LR 27:711 (May 2001).

§2245. Generators' Waste Analysis, Recordkeeping, and Notice Requirements

* * *

[See Prior Text in A - F]

G If a generator determines that he is managing a prohibited waste that is excluded from the definition of hazardous or solid waste or exempted from regulation under LAC 33:V.Chapter 1 or 41 subsequent to the point of generation (including deactivated characteristic hazardous wastes managed in wastewater treatment systems subject to the Clean Water Act (CWA) as specified in LAC 33:V.105.D.1.b, or that are CWA-equivalent, or are managed in an underground injection well regulated by the Solid Disposal Waste Act, SDWA), the generator must place a one-time notice stating such generation, subsequent exclusion from the definition of hazardous or solid waste or exemption from the regulation under LAC 33:V.Subpart 1, and the disposition of the waste, in the facility's on-site file.

H. Generators must retain on-site a copy of all notices, certifications, demonstrations, waste analysis data, and other documentation produced in accordance with this Section for at least three years from the date that the waste that is the subject of such documentation was last sent to on-site or off-site treatment, storage, or disposal. The three-year record retention period is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested by the administrative authority. The requirements of this Paragraph apply to solid wastes even when the hazardous characteristic is removed prior to disposal, or when the waste is excluded from the definition of hazardous or solid waste under LAC 33:V.Chapter 1 or 41, or exempted from regulation under LAC 33:V.Subpart 1, subsequent to the point of generation.

* * *

[See Prior Text in I - K]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:267 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), LR 22:820 (September 1996), LR 22:1130 (November 1996), LR 23:565 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:669 (April 1998), LR 24:1728 (September 1998), LR 25:447

(March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:281 (February 2000), LR 26:2478 (November 2000), LR 27:295 (March 2001), LR 27:711 (May 2001).

Subchapter B. Hazardous Waste Injection Restrictions

§2249. Purpose, Scope, and Applicability

[See Prior Text in A - C.2]

3. if the waste is generated by a conditionally exempt small quantity generator, as defined in LAC 33:V.108.

[See Prior Text in D - D.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:22 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1800 (October 1999), LR 27:712 (May 2001).

Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces

§3001. Applicability

[See Prior Text in A - C.2]

3. hazardous wastes that are exempt from regulation under LAC 33:V.105.D and 4105.B.10-12, and hazardous wastes that are subject to the special requirements for conditionally exempt small quantity generators under LAC 33:V.108; and

[See Prior Text in C.4 - H.Note]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:821 (September 1996), LR 22:835 (September 1996), amended by the Office of Environmental Assessment, Environmental Planning Division LR 25:1466 (August 1999), LR 27:297 (March 2001), LR 27:712 (May 2001).

§3017. Small Quantity On-Site Burner Exemption

[See Prior Text in A - A.4]

B. Mixing with Nonhazardous Fuels. If hazardous waste fuel is mixed with a nonhazardous fuel, the quantity of hazardous waste before such mixing is used to comply with Subsection A.1 of this Section.

C. Multiple Stacks. If an owner or operator burns hazardous waste in more than one on-site boiler or industrial furnace exempt under this Section, the quantity limits provided by Subsection A.1 of this Section are implemented according to the following equation:

$$\sum_{i=1}^n \frac{\text{Actual Quantity Burned}_{(i)}}{\text{Allowable Quantity Burned}_{(i)}} \leq 1.0$$

where:

n = the number of stacks;

Actual Quantity Burned = the waste quantity burned per month in device "i";

Allowable Quantity Burned = the maximum allowable exempt quantity for stack "i" from the table in LAC 33:V.3017.A.1.

NOTE: Hazardous wastes that are subject to the special requirements for small quantity generators under LAC 33:V.108 may be burned in an off-site device under the exemption provided by LAC 33:V.3017, but must be included in the quantity determination for the exemption.

[See Prior Text in D - E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 21:944 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:712 (May 2001).

Chapter 38. Universal Wastes

Subchapter A. General

§3801. Scope and Applicability

A. This Chapter establishes requirements for managing batteries, pesticides, thermostats, lamps, and antifreeze as described in LAC 33:V.3813. This Chapter provides an alternative set of management standards in lieu of regulations under LAC 33:V.Subpart 1.

[See Prior Text in B]

C. Conditionally exempt small quantity generator wastes that are regulated under LAC 33:V.108 and are also of the same type as the universal wastes defined in LAC 33:V.3813 may, at the generator's option, manage these wastes under the requirements of this Chapter.

D. Persons who commingle the wastes described in Subsections B and C of this Section, together with universal waste regulated under this Chapter, must manage the commingled waste under the requirements of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1108 (June 1998), LR 24:1496 (August 1998), LR 24:1759 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:712 (May 2001).

Chapter 39. Reserved

§3901. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:237 (April 1987), LR 20:1109 (October 1994), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 27:712 (May 2001).

§3903. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:237 (April 1987), repromulgated LR 18:1256 (November 1992), amended LR 20:1109 (October 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2496 (November 2000), repealed LR 27:712 (May 2001).

§3907. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:1139 (December 1985), LR 20:1000 (September 1994), LR 20:1109 (October 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2496 (November 2000), repealed LR 27:713 (May 2001).

§3911. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:220 (March 1990), LR 20:1109 (October 1994), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 27:713 (May 2001).

§3913. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:237 (April 1987), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 27:713 (May 2001).

§3915. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:237 (April 1987), LR 16:220 (March 1990), repromulgated LR 18:1256 (November 1992), amended LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 23:579 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1497 (August 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2496 (November 2000), repealed LR 27:713 (May 2001).

Chapter 40. Used Oil

Subchapter A. Materials Regulated as Used Oil

§4003. Applicability

This Section identifies those materials which are subject to regulation as used oil under this Chapter. This Section also identifies some materials that are not subject to regulation as used oil under this Chapter and indicates whether these materials may be subject to regulation as hazardous waste under this Subpart.

[See Prior Text in A - B.2.c]

3. Conditionally Exempt Small Quantity Generator Hazardous Waste. Mixtures of used oil and conditionally exempt small quantity generator hazardous waste regulated under LAC 33:V.108 are subject to regulation as used oil under this Chapter.

[See Prior Text in C - I]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended LR 22:828 (September 1996), LR 22:836 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1108 (June 1998), LR 25:481 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:713 (May 2001).

Chapter 41. Recyclable Materials

§4105. Requirements for Recyclable Material

Recyclable materials are subject to additional regulations as follows:

[See Prior Text in A - B.6]

7. Reserved

[See Prior Text in B.8 - 10]

11. oil reclaimed from oil-bearing hazardous wastes from petroleum refining, production, and transportation practices, which reclaimed oil is burned as a fuel without reintroduction to a refining process, so long as the reclaimed oil meets the used oil fuel specification under LAC 33:V.4005.

[See Prior Text in C - F]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 16:219 (March 1990), LR 17:362 (April 1991), repromulgated LR 18:1256 (November 1992), amended LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:837 (September 1996), LR 23:579 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:685 (April 1998), LR 24:1108 (June 1998), LR 24:1742 (September 1998), LR 25:482 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:713 (May 2001).

Chapter 43. Interim Status

§4301. Purpose and Applicability

[See Prior Text in A - D]

E. The requirements of this Chapter apply to owners or operators of all facilities which treat, store, or dispose of hazardous waste referred to in LAC 33:V.Chapter 22, and Chapter 22 standards are material conditions or requirements of the LAC 33:V.Chapter 43 interim status standards.

[See Prior Text in F - I]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:84 (February 1987), LR 16:220 (March 1990), LR 17:362 (April 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1743 (September 1998), LR 25:482 (March 1999), LR 25:1466 (August 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2498 (November 2000), LR 27:713 (May 2001).

§4313. General Waste Analysis

* * *

[See Prior Text in A]

B. The analysis may include data developed under LAC 33:V.Chapters 1, 31, 41, 49 and existing published or documented data about the hazardous waste or about waste generated from similar processes.

* * *

[See Prior Text in Comment- F.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:1057 (December 1990), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1743 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:714 (May 2001).

Subchapter I. Tanks

§4438. Special Requirements For Generators of Between 100 and 1,000 kg/month That Accumulate Hazardous Waste in Tanks

A. The requirements of this Section apply to small quantity generators of more than 100 kg, but less than 1,000 kg, of hazardous waste in a calendar month, that accumulate hazardous waste in tanks for less than 180 days (or 270 days if the generator must ship the waste greater than 200 miles), and do not accumulate over 6,000 kg on-site at any time.

B. Generators of between 100 and 1,000 kg/month hazardous waste must comply with the following general operating requirements:

1. treatment or storage of hazardous waste in tanks must comply with LAC 33:V.4321.B;
2. hazardous wastes or treatment reagents must not be placed in a tank if they could cause the tank or its inner liner to rupture, leak, corrode, or otherwise fail before the end of its intended life;
3. uncovered tanks must be operated to ensure at least 60 centimeters (2 feet) of freeboard, unless the tank is equipped with a containment structure (e.g., dike or trench), a drainage control system, or a diversion structure (e.g., standby tank) with a capacity that equals or exceeds the volume of the top 60 centimeters (2 feet) of the tank; and
4. where hazardous waste is continuously fed into a tank, the tank must be equipped with a means to stop this inflow (e.g., waste feed cutoff system or by-pass system to a stand-by tank).

[NOTE: These systems are intended to be used in the event of a leak or overflow from the tank due to a system failure (e.g., a malfunction in the treatment process, a crack in the tank, etc.)]

C. Generators of between 100 and 1,000 kg/month accumulating hazardous waste in tanks must inspect, where present:

1. discharge control equipment (e.g., waste feed cutoff systems, by-pass systems, and drainage systems) at least once each operating day to ensure that it is in good working order;

2. data gathered from monitoring equipment (e.g., pressure and temperature gauges) at least once each operating day to ensure that the tank is being operated according to its design;

3. the level of waste in the tank at least once each operating day to ensure compliance with Subsection B.3 of this Section;

4. the construction materials of the tank at least weekly to detect corrosion or leaking of fixtures or seams; and

5. the construction materials of, and the area immediately surrounding, discharge confinement structures (e.g., dikes) at least weekly to detect erosion or obvious signs of leakage (e.g., wet spots or dead vegetation).

[NOTE: As required by LAC 33:V.4317.C, the owner or operator must remedy any deterioration or malfunction he finds.]

D. Generators of between 100 and 1,000 kg/month accumulating hazardous waste in tanks must, upon closure of the facility, remove all hazardous waste from tanks, discharge control equipment, and discharge confinement structures.

NOTE: At closure, as throughout the operating period, unless the owner or operator can demonstrate, in accordance with LAC 33:V.109.Hazardous Waste.4 or 5, that any solid waste removed from the tank is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and must manage it in accordance with all applicable requirements of LAC 33:V.Chapters 11, 13, and 43.

E. Generators of between 100 and 1,000 kg/month must comply with the following special requirements for ignitable or reactive waste:

1. ignitable or reactive waste must not be placed in a tank, unless:

- a. the waste is treated, rendered, or mixed before or immediately after placement in a tank so that the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under LAC 33:V.4903.B or D, and LAC 33:V.4321.B is complied with; or

- b. the waste is stored or treated in such a way that it is protected from any material or conditions that may cause the waste to ignite or react; or

- c. the tank is used solely for emergencies.

2. the owner or operator of a facility that treats or stores ignitable or reactive waste in covered tanks must comply with the buffer zone requirements for tanks contained in Tables 2-1 - 2-6 of the National Fire Protection Association's *Flammable and Combustible Liquids Code*, (1977 or 1981) (incorporated by reference, see LAC 33:V.110).

F. Generators of between 100 and 1,000 kg/month must comply with the following special requirements for incompatible wastes:

1. incompatible wastes, or incompatible wastes and materials, must not be placed in the same tank, unless LAC 33:V.4321.B is complied with; and

2. hazardous waste must not be placed in an unwashed tank that previously held an incompatible waste or material, unless LAC 33:V.4321.B is complied with.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:714 (May 2001).

Chapter 49. Lists of Hazardous Wastes

§4901. Category I Hazardous Wastes

* * *

[See Prior Text in A - Comment]

Hazard codes are defined as follows for the listed hazardous wastes.

Ignitable waste	(I)
Corrosive waste	(C)
Reactive waste	(R)
Toxicity Characteristic waste	(E)
Acute hazardous waste or acutely hazardous waste	(H)
Toxic waste	(T)

1. Each hazardous waste listed in this Chapter is assigned an EPA Hazardous Waste number, which precedes the name of the waste. This number must be used in complying with the notification requirements of Section 3010 or 105.A of the act and certain recordkeeping and reporting requirements under LAC 33:V.Chapters 3-29, 31-38, and 43.

2. The following hazardous wastes listed in LAC 33:V.4901.B and C are subject to the exclusion limits for acutely hazardous wastes established in LAC 33:V.108: EPA Hazardous Wastes Numbers F020, F021, F022, F023, F026, and F027.

* * *

[See Prior Text in B - D.4.Comment]

E. The commercial chemical products, manufacturing chemical intermediates, or off-specification commercial chemical products or manufacturing chemical intermediates referred to in LAC 33:V.4901.D.1-4 are identified as acute hazardous wastes (H) and are subject to the small quantity exclusions defined in LAC 33:V.108.E. These wastes and their corresponding EPA Hazardous Waste Numbers are listed in Table 3.

* * *

[See Prior Text in E.Comment- Table 3.Note 1]

F. Commercial chemical products or manufacturing chemical intermediates or off-specification commercial chemical products referred to in LAC 33:V.4901.D.1-4 are identified as toxic wastes (T) unless otherwise designated and are subject to the small quantity generator exclusion defined in LAC 33:V.108.A and G. These wastes and their corresponding EPA Hazardous Waste Numbers are listed in Table 4.

[Comment: For the convenience of the regulated community, the primary hazardous properties of these materials have been indicated by the letters T (Toxicity), R (Reactivity), I (Ignitability), and C (Corrosivity). Absence of a letter indicates that the compound is listed only for toxicity.]

* * *

[See Prior Text in Table 4 - G.Table 6]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:320 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 14:426 (July 1988), LR 14:790 (November 1988), LR 15:182 (March 1989), LR 16:47 (January 1990), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 16:1057 (December 1990), LR 17:369 (April 1991), LR 17:478 (May 1991), LR 17:658 (July 1991), LR

18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:829 (September 1996), LR 22:840 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1522 (November 1997), LR 24:321 (February 1998), LR 24:686 (April 1998), LR 24:1754 (September 1998), LR 25:487 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:304 (March 2001), LR 27:715 (May 2001).

§4907. Criteria for Listing Hazardous Waste

* * *

[See Prior Text in A - B]

C. the administrative authority shall use the criteria for listing specified in this Chapter to establish the exclusion limits referred to in LAC 33:V.108.C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:478 (May 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:715 (May 2001).

James H. Brent, Ph.D.

Assistant Secretary

0105#085

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Small Quantity Generator Revisions
(LAC 33:V.108, 1109, and 5137)(HW075L)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste regulations, LAC 33:V.Chapters 1, 11, and 51 (Log #HW075L).

Rule HW075F, which is being promulgated concurrent with this rule (HW075L), changes the categories of hazardous waste generators to be equivalent to the federal regulations and also makes other revisions to the regulations to make them equivalent to the federal regulations. This rule, HW075L, reinstates the existing requirements that conditionally exempt small quantity generators (presently Louisiana small quantity generators) notify as generators of hazardous waste and pay a \$50 annual fee. The Administrative Procedure Act requires that the department adopt federal language separately from non-federal language. This rule, HW075L, will reinstate language that would be lost if the department were to adopt the federally-equivalent language in HW075F without this companion rule. Preserving existing language will ensure that the department continues to be notified of the activity of all hazardous waste generators and can, thus, continue to effectively ensure that wastes are being handled in a manner that is protective of human health and the environment. The basis and rationale for this rule are to ensure that the existing hazardous waste program will not be compromised due to the changes in the HW075F package. This rule will allow

the agency to continue to receive the notification forms and fees for hazardous waste activity within the state.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality Hazardous Waste

Chapter 1. General Provisions and Definitions

§108. Special Requirements for Hazardous Waste Generated by Conditionally Exempt Small Quantity Generators

* * *

[See New Text in F Package in A]

B. Except for those wastes identified in Subsections E, F, G, and J of this Section, a conditionally exempt small quantity generator's hazardous wastes are not subject to regulation under Chapters 3 - 37, 41, 43, and 53, except for LAC 33:V.Chapter 31.Table 1, provided the generator complies with the requirements of Subsections F, G, and J of this Section.

* * *

[See New Text in F Package in C - F.3.f.ii]

g. for universal waste managed under LAC 33:V.Chapter 38, a universal waste handler or destination facility subject to the requirements of 40 CFR 273 or LAC 33:V.Chapter 38;

4. notify the department in accordance with LAC 33:V.105.A; and

5. any and all fees required to be paid by conditionally exempt small quantity generators in accordance with LAC 33:V.5137 must be paid.

* * *

[See New Text in F Package in G - G.3.f.ii]

g. for universal waste managed under LAC 33:V.Chapter 38, a universal waste handler or destination facility subject to the requirements of 40 CFR 273 or LAC 33:V.Chapter 38;

4. notify the department in accordance with LAC 33:V.105.A; and

5. any and all fees required to be paid by conditionally exempt small quantity generators in accordance with LAC 33:V.5137 must be paid.

* * *

[See New Text in F Package in H - J]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:716 (May 2001), amended LR 27:716 (May 2001).

Chapter 11. Generators

§1109. Pre-Transport Requirements

* * *

[See Amended Text in F Package in A - E.7.d.iv.(c).(v)]

e. the quantity of waste accumulated on-site never exceeds 6000 kg;

f. any and all fees required to be paid by generators must be paid.

* * *

[See New Text in F Package in E.8 - 9]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 16:47 (January 1990), LR 16:220 (March 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998), LR 25:437 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1466 (August 1999), LR 26:277 (February 2000), LR 26:2470 (November 2000), LR 27:293 (March 2001), LR 27:716 (May 2001).

Chapter 51. Fee Schedules

§5137. Conditionally Exempt Small Quantity Generator Fee

A. Conditionally exempt small quantity generators (see LAC 33:V.108) shall pay a fee of \$50 per year to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 14:622 (September 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:716 (May 2001).

James H. Brent, Ph.D.
Assistant Secretary

0105#086

RULE

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

EPO Plan of Benefits
Emergency Room
Deductible
Non-EPO Facility
(LAC 32:V.701)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:871(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 has amended provisions of the EPO Plan Document to increase the emergency room deductible applicable to services at a non-EPO facility. The reason for this action is to avoid adverse financial impact that would affect fiscal solvency of the State Employees Group Benefits Program and the availability of services necessary to maintain the health and welfare of the covered employees and their dependents,

which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, the board amends the following Rule to become effective July 1, 2001.

Title 32

EMPLOYEE BENEFITS

Part V. Exclusive Provider (EPO) Plan of Benefits

Chapter 7. Schedule of Benefits C EPO

§701. Comprehensive Medical Benefits

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

	PPO/non-participating provider	EPO
Lifetime Maximum for all Benefits except Outpatient Prescription Drug Benefits per person ...		
Lifetime Maximum for all Outpatient Prescription Drug Benefits per person ...		

1. Deductibles

Inpatient deductible per day, maximum of 5 days per Admission (waived for admissions at PPO hospitals) ...

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 0

Professional and other eligible expenses, Employees and Dependents of Employees, Per person, per Calendar Year ...

Professional and other eligible expenses, Retirees and Dependents of Retirees, Per person, per Calendar Year ...

Family Unit maximum (3 individual deductibles)

2. - 4. ...

B. - 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, amended LR 25:1823 (October 1999), LR 26:487 (March 2000), LR 27:717 (May 2001).

A. Kip Wall
Chief Executive Officer

0105#041

RULE

**Office of the Governor
Division of Administration**

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

EPO Plan of Benefits C Glucometers
(LAC 32:V.317 and 325)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:871(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 has amended provisions of the EPO Plan Document to exclude coverage of glucometers. The reason for this action is to avoid adverse financial impact that would affect fiscal solvency of the State Employees Group Benefits Program and the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, the board amends the following Rule to become effective July 1, 2001.

Title 32

EMPLOYEE BENEFITS

Part V. Exclusive Provider (EPO) Plan of Benefits

Chapter 3. Medical Benefits

§317. Exceptions and Exclusions for All Medical Benefits

A. No benefits are provided under this plan for:

1. - 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), amended LR 26:487 (March 2000), LR 27:717 (May 2001).

§325. Prescription Drug Benefits

A. ...

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

1. - 11. ...

12. Glucometers.

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 25:1815 (October 1999), amended LR 27:717 (May 2001).

A. Kip Wall
Chief Executive Officer

0105#071

RULE

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

EPO Plan of Benefits CNew Employees CPre-Existing
Condition Limitation (LAC 32:V.101)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:871(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 has amended provisions of the EPO Plan Document to implement a pre-existing condition limitation for new employees. The reason for this action is to avoid adverse financial impact that would affect fiscal solvency of the State Employees Group Benefits Program and the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, the board amends the following Rule to become effective July 1, 2001.

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. - 7. ...

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

a. The terms of the following paragraphs apply to all eligible employees whose employment with a participant employer commences on or after July 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 six-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

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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 27:718 (May 2001).

A. Kip Wall
Chief Executive Officer

0105#072

RULE

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

EPO Plan of Benefits CPrescription Drug Benefits
(LAC 32:V.325, 601, and 701)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:871(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 has amended provisions of the EPO Plan Document relative to prescription drug benefits. The reason for this action is to avoid adverse financial impact that would affect fiscal solvency of the State Employees Group Benefits Program and the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, the board amends the following Rule to become effective July 1, 2001.

Title 32

EMPLOYEE BENEFITS

Part V. Exclusive Provider (EPO) Plan of Benefits

Chapter 3. Medical Benefits

§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, the Plan Member will be responsible for payment of 50 percent of the cost of the drug, up to a maximum of \$50 per prescription dispensed. The plan will pay the balance of the eligible expense for prescription drugs dispensed at a network pharmacy.

2. ...

3. If the plan member obtains a prescription drug from a non-network pharmacy in state, reimbursement will be limited to 50 percent of the amount that would have been paid if the drug had been dispensed at a network pharmacy. If the plan member obtains a prescription drug from a non-network pharmacy out of state, benefits will be limited to 80 percent of the amount that would have been paid if the drug had been dispensed at a network pharmacy.

4. Regardless of where the prescription drug is obtained, eligible expenses for brand name drugs will be limited to the prescription benefits manager's maximum allowable charge for the drug dispensed.

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 drugs may be dispensed at one time; and

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

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 27:718 (May 2001).

Chapter 7. Schedule of Benefits C EPO

§701. Comprehensive Medical Benefits

A. ...

1. - 3. ...

4. Prescription Drugs (Not subject to deductible)

Network Pharmacy	Member pays 50% of drug costs at point of purchase
Maximum co-payment	\$50 per prescription dispensed
Non-network pharmacy	Plan pays balance of Eligible Expense
In-state	Member pays full drug costs at point of purchase
Out-of-state	Reimbursement limited to 50% of amount payable by Plan at Network Pharmacy
	Reimbursement limited to 80% of amount payable by Plan at Network Pharmacy

B. - 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 26:487 (March 2000), LR 27:719 (May 2001).

A. Kip Wall
Chief Executive Officer

0105#073

RULE

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

PPO Plan of Benefits C Annual Deductible (LAC 32:III.701)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:871(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 has amended provisions of the PPO Plan Document to increase the annual deductible for employees and dependents of employees. The reason for this action is to avoid adverse financial impact that would affect fiscal solvency of the State Employees Group Benefits Program and the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, the board amends the following Rule to become effective July 1, 2001.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 7. Schedule of Benefits C PPO

§701. Comprehensive Medical Benefits

A. ...

1. Deductibles

Inpatient deductible per day, maximum of 5 days per admission (waived for admissions at PPO Hospitals) ...

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) ...

Professional and other eligible expenses, Employees and Dependents of Employees, \$ 500
Per person, per Calendar Year

Professional and other eligible expenses, Retirees and Dependents of Retirees, Per person, per Calendar Year \$ 300

Family Unit maximum (3 individual deductibles)

2. - 4. ...

B. - 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 25:1843 (October 1999), LR 26:488 (March 2000), LR 27:719 (May 2001).

A. Kip Wall
Chief Executive Officer

0105#074

RULE

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

PPO Plan of Benefits C Emergency Room Deductible
(LAC 32:III.701)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:871(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 has amended provisions of the PPO Plan Document to increase the emergency room deductible. The reason for this action is to avoid adverse financial impact that would affect fiscal solvency of the State Employees Group Benefits Program and the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, the board amends the following Rule to become effective July 1, 2001.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 7. Schedule of Benefits C PPO

§701. Comprehensive Medical Benefits

A. ...

1. Deductibles

Inpatient deductible per day, maximum of 5 days per admission (waived for admissions at PPO Hospitals) ...

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 ...

Professional and other eligible expenses, Retirees and Dependents of Retirees, per person, per Calendar Year ...

Family Unit maximum (3 individual deductibles)

2. - 4. ...

B. - 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 25:1843 (October 1999), LR 26:488 (March 2000), LR 27:720 (May 2001).

A. Kip Wall
Chief Executive Officer

0105#075

RULE

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

PPO Plan of Benefits C Glucometers
(LAC 32:III.317 and 323)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:871(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 has amended provisions of the PPO Plan Document to exclude coverage for glucometers. The reason for this action is to avoid adverse financial impact that would affect fiscal solvency of the State Employees Group Benefits Program and the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, the board has amended the following Rule to become effective July 1, 2001.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 3. Medical Benefits

§317. Exceptions and Exclusions for All Medical Benefits

A. No benefits are provided under this Plan for:

1. - 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 27:720 (May 2001)

§323. Prescription Drug Benefits

A. ...

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

1.-11. ...

12. Glucometers.

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 25:1835 (October 1999), LR 27:720 (May 2001).

A. Kip Wall
Chief Executive Officer

0105#076

RULE

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

PPO Plan of Benefits CNew Employees CPre-Existing
Condition Limitation (LAC 32:III.101)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:871(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 has amended provisions of the PPO Plan Document to implement a pre-existing condition limitation for new employees. The reason for this action is to avoid adverse financial impact that would affect fiscal solvency of the State Employees Group Benefits Program and the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, the board has amended the following Rule to become effective July 1, 2001.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 1. Eligibility

§101. Persons to be Covered

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

A. Employee Coverage

1. - 7. ...

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

a. The terms of the following paragraphs apply to all eligible employees whose employment with a participant employer commences on or after July 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 six-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 27:721 (May 2001).

A. Kip Wall
Chief Executive Officer

0105#077

RULE

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

PPO Plan of Benefits CPrescription Drug Benefits
(LAC 32:III.323, 601, and 701)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:871(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 has amended provisions of the PPO Plan Document relative to prescription drug benefits. The reason for this action is to avoid adverse financial impact that would affect fiscal solvency of the State Employees Group Benefits Program and the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, the board has amended the following Rule to become effective July 1, 2001.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 3. Medical Benefits

§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, the Plan Member will be responsible for payment of 50 percent of the cost of the drug, up to a maximum of \$50 per prescription dispensed. The plan will pay the balance of the eligible expense for prescription drugs dispensed at a network pharmacy.

2. ...

3. If the plan member obtains a prescription drug from a non-network pharmacy in state, reimbursement will be limited to 50 percent of the amount that would have been paid if the drug had been dispensed at a network pharmacy. If the plan member obtains a prescription drug from a non-network pharmacy out of state, benefits will be limited to 80 percent of the amount that would have been paid if the drug had been dispensed at a network pharmacy.

4. Regardless of where the prescription drug is obtained, eligible expenses for brand name drugs will be limited to the prescription benefits manager's maximum allowable charge for the drug dispensed.

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 drugs may be dispensed at one time; and

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

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 27:721 (May 2001).

Chapter 7. Schedule of Benefits C PPO

§701. Comprehensive Medical Benefits

A. ...

1. - 3. ...

4. Prescription Drugs (Not subject to deductible)

Network Pharmacy	Member pays 50% of drug costs at point of purchase
Maximum co-payment	\$50 per prescription dispensed
Non-network pharmacy	Plan pays balance of Eligible Expense
In-state	Member pays full drug costs at point of purchase
Out-of-state	Reimbursement limited to 50% of amount payable by Plan at Network Pharmacy
	Reimbursement limited to 80% of amount payable by Plan at Network Pharmacy

B. - 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 25:1843 (October 1999), LR 26:488 (March 2000), LR 27:722 (May 2001).

A. Kip Wall
Chief Executive Officer

0105#078

RULE

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

PPO Plan of Benefits C Stop Loss Threshold
(LAC 32:III.321 and 701)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:871(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 has amended provisions of the PPO Plan Document relative to the stop loss threshold. The reason for this action is to avoid adverse financial impact that would affect fiscal solvency of the State Employees Group Benefits Program and the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Accordingly, the board has amended the following Rule to become effective July 1, 2001.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 3. Medical Benefits

§321. Preferred Provider Program

A. ...

1. If a Covered Person obtains medical services or Hospital services from an eligible provider who has agreed to provide the services at a mutually agreed upon discount from the maximum medical Fee Schedule or at a per diem or discounted rate from a Hospital, the Program will pay, following satisfaction of all applicable deductibles, 90 percent of the first \$10,000 of eligible expenses and 100 percent of eligible expenses, except prescription drugs, in excess of \$10,000 for the remainder of the Calendar Year subject to the maximum amount as specified in the Schedule of Benefits.

2. ...

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 27:722 (May 2001).

Chapter 7. Schedule of Benefits C PPO

§701. Comprehensive Medical Benefits

A. ...

1. ...

2. Percentage Payable after Satisfaction of Applicable Deductibles

Eligible expenses incurred at a PPO	90% of negotiated rate
Eligible expenses incurred at a non-PPO when one is available in the PPO Region	50%
Eligible expenses incurred at a non-PPO when not available at a PPO or out of state	80%
Eligible expenses incurred when Medicare or other group health plan is primary, and after Medicare reduction	80%
Eligible expenses in excess of \$10,000 per Calendar Year per person	100%

3. - 4. ...

B. - 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 25:1843 (October 1999), LR 26:488 (March 2000), LR 27:723 (May 2001).

A. Kip Wall
Chief Executive Officer

0105#079

RULE

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

Reciprocity (LAC 46:LXIII.201)

In accordance with R.S. 49:950 et seq., the Board of Examiners of Psychologists has adopted the following rule related to the licensure of psychologists through reciprocity.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXIII. Psychologists

Chapter 2. Reciprocity

§201. Licensure of Psychologists through Reciprocity

A. Upon application thereof, accompanied by such fee as determined by the board, the board shall issue a license to any person who furnishes, upon a form and in such manner as the board prescribes, evidence satisfactory to the board that:

1. he/she meets all of the following:

a. is licensed as a psychologist by another member jurisdiction of the Association of State and Provincial Psychology Boards (ASPPB) if the requirements for such licensure in that jurisdiction are the substantial equivalent of those required by Chapter 3 of the LAC, and if that jurisdiction has entered into a similar agreement with this board providing for the licensure of Louisiana psychologists in that jurisdiction by reciprocity; and

b. has met the requirements of such board including five years of satisfactory professional licensed experience in psychology; and

c. has successfully passed written and oral examinations administered by such board; and

d. his/her doctoral program involved at least one continuous academic year of full-time residency on the campus of the institution at which the degree was granted; and

e. he/she has not been subject to any disciplinary action by a professional board, and does not have any pending complaints against him/her; or

2. he/she is a psychologist licensed in another state or territory of the U.S. or a Canadian province who has met the requirements for and holds a current Certificate of Professional Qualification in Psychology (CPQ) issued by the Association of State and Provincial Psychology Boards (ASPPB).

B. Applicants for reciprocal licensing must pass the Louisiana Jurisprudence Examination prior to the issuance of a Louisiana license, and the Louisiana board may require a meeting with the applicant to review and verify his/her satisfactory character, current fitness, plans to practice, and specialty declaration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 27:723 (May 2001).

John A. Brun, Ph.D.
Chairman

0105#031

RULE

**Department of Health and Hospitals
Board of Nursing**

Advanced Practice Registered Nurses
(LAC 46:XLVII.Chapter 45)

In accordance with the provisions of the Administrative Procedure Act, R.S.49:950 et seq., the Board of Nursing (board) pursuant to the authority vested in the board by R.S. 37:918 and R.S. 37:919 has amended the Professional and Occupational Standards pertaining to Advanced Practice Registered Nurses. The Rules are set forth below.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 45. Advanced Practice Registered Nurses

§4503. Titles

A. A nurse licensed as an Advanced Practice Registered Nurses (APRN) shall include, but not be limited to, the following functional roles:

1. certified nurse midwife (CNM) as defined in the R.S. 37:913(1)(a);

2. certified registered nurse anesthetist (CRNA) as defined in the R.S. 37:913(1)(b);

3. clinical nurse specialist (CNS) as defined in the R.S.37:913 (1)(c);

4. nurse practitioner (NP) as defined in the R.S. 37:913(1)(d);

5. registered nurse anesthetist (RNA) as provided for in R.S.37:930.B.

B. A licensed Advanced Practice Registered Nurse must use the title RN unless the certification title includes RN, i.e. CRNA. APRN may be used. The category of certification

and/or education designation may be used before or after RN as follows:

1. Certification
 - a. CNM: Certified Nurse Midwife
 - b. CRNA: Certified Registered Nurse Anesthetist
 - c. CNS: Clinical Nurse Specialist plus area of specialty, i.e. CNS, Medical/Surgical
 - d. NP: Nurse Practitioner plus area of specialty, i.e. FNP for Family Nurse Practitioner

2. Education
 - a. MSN, MN, MS or other appropriate degree at the masters level
 - b. DNS, EdD, PhD, or other appropriate degree at the doctorate level

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:281 (April 1996), amended LR 27:723 (May 2001).

§4505. Definitions

Advanced Practice CertificationCcertification by a nationally recognized certifying body approved by the board.

Advanced Practice Nursing SpecialtyCa designated area of advanced practice in which the registered nurse holds a graduate degree with experience in the area of practice that includes advanced nursing theory; substantial knowledge of physical and psychosocial assessment; appropriate interventions and management of health care status; e.g. family, pediatric, anesthesia, women's health.

Functional RoleCthe advanced practice role for which a master's in nursing program prepares its graduates. The categories of functional roles for advanced practice licensure include nurse midwives, nurse anesthetists, clinical nurse specialists, and nurse practitioners.

Lapsed APRN LicenseCinactive APRN licensure status due to failure to renew or to request inactive licensure status.

Under the Direction of an Approved PreceptorCguidance by a licensed APRN, physician, dentist or person approved by the board within the same or related practice specialty or functional role must be accessible but not physically present.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 27:724 (May 2001).

§4507. Licensure as Advanced Practice Registered Nurse

- A. - A.1.a. ...
 - b. completion of a minimum of a master's degree with a concentration in the respective advanced practice nursing specialty and/or functional role or completion of a post master's concentration in the respective advanced practice nursing specialty and/or functional role from an accredited college or university that meets the curriculum guidelines established by the board. Exception to the master's degree will be granted to those applicants who provide documentation as requested by the board that, prior to December 31, 1995, the applicant completed or was continuously enrolled in a formalized post-basic education

program preparing for the advanced practice nursing specialty and/or functional role as approved by the board prior to December 31, 1995 as follows:

- i. a program of studies offered through an institution of higher education which qualifies the graduate to take a certification examination in the advanced practice specialty and/or functional role; or
- ii. ...
- iii. a program, which is individually recognized by the Board of Nursing based on established criteria as stated in LAC 46:XLVII.4509.
- c. ...
- d. submission of evidence of current certification in the respective advanced practice nursing specialty and/or functional role by a nationally recognized certifying body approved by the board. When specialty and/or functional role certification is not available, in addition to meeting the above requirements, the individual will be required to meet the commensurate requirements specified below in Paragraph 2.
- e. ...
- f. after initial licensure, applicants seeking licensure for advanced practice in an additional specialty/role shall meet the requirements stated in LAC 46:XLVII.4507.A.1.a-d.

2. Commensurate Requirements When Certification is Not Available

- a. Holds the minimum of a master's degree with a concentration in the respective advanced practice nursing specialty and/or functional role from a regionally accredited college or university or a program otherwise approved by the board and has practiced with a APRN temporary permit for a minimum of 6 months to a maximum of 24 months, and
- b. Have provided a minimum of 800 hours of patient care under the direction of an approved preceptor within the past 24 months; up to 400 of these may be earned through clinical practicum in a masters program; and
- c. Submit an affidavit for waiver of Certification Examination on a form provided by the board.

3. An APRN license shall be issued with an expiration date that coincides with the applicant's RN license.

B. Temporary Permit: Initial Applicants

1. An APRN applicant who possesses a current RN license or a valid RN temporary permit, may be granted a temporary permit which allows the applicant to practice under the guidance of a licensed APRN, physician, dentist or approved preceptor within the practice specialty and/or functional role of the applicant, except as provided for in R.S. 37:930.A.3:

- a. in the process of applying for initial licensure under LAC 46:XLVII.4507.A.; and
- b. has been accepted as a first-time candidate for the national professional certification examination; or
- c. in the process of meeting the practice eligibility requirements for the national professional certification examination for the advanced nursing practice specialty and/or functional role as recognized by the board; or

d. in the process of meeting the practice requirements for licensure by commensurate requirements; or

e. is awaiting certification results based upon initial application; and

f. ...

2. ...

3. Upon receipt of initial certification examination results:

a. the temporary permit shall expire;

b. applicant shall submit or cause to be submitted, a copy of the results to the board;

c. unsuccessful candidates shall:

i. cease to practice as an APRN applicant (does not prohibit practice as a registered nurse);

ii. return the temporary permit to the board;

iii. notify the employer of the results.

4. Upon completion of the commensurate requirements or at the end of two years, the temporary permit shall expire.

5. An advanced practice registered nurse seeking licensure in either an additional advanced practice nursing category or area of specialization, may seek a temporary permit as stated in LAC.46.XLVII.4507.B and D.

6. The APRN temporary permit may be extended until receipt of initial certification results.

C.1.a. - e. ...

f. verification of educational requirements as stated in LAC 46:XLVII.4507.A.1.b;

g. verification of current national certification in the respective specialty and/or functional role area as recognized by the board; or meets commensurate requirements as specified in LAC 46:XLVII.4507.A.2;

h. documentation of meeting the requirements in LAC 46:XLVII.4515.

2. ...

a. ...

b. information regarding the applicant's qualifications for advanced practice directly from the board in the state where the applicant was last employed in the APRN category.

3. If the applicant is applying from a jurisdiction that does not verify advanced practice or does not meet the endorsement requirements, the applicant shall qualify by meeting the requirements for initial APRN licensure, LAC 46:XLVII.4507.A and B.

D. ...

1. A nurse seeking APRN licensure by endorsement, and has been issued a RN temporary permit, may be issued a temporary permit to practice as an APRN for a maximum of 90 days if the applicant submits:

a. ...

b. the required nonrefundable fee as set forth in LAC 46:XLVII.3361.A.2; 3341;

c. evidence of meeting the educational and certification requirements specified in LAC 46:XLVII.4507.A.1.b and d; or

d. documentation of registration for the certifying examination within 90 days.

2. The APRN temporary permit may be extended until receipt of initial certification results.

E. Renewal of Licenses by Certification, Commensurate Requirements, or Grandfathering

1. The date for renewal of licensure to practice as an APRN shall coincide with renewal of the applicant's RN license. Renewal of the APRN license is contingent upon renewal of the RN license and verification that there are no grounds for disciplinary proceedings as stated in R.S. 37:921. An applicant for renewal of an APRN license shall submit to the board:

a. ...

b. evidence of current certification/recertification, unless the APRN has been licensed by the board in accordance with R.S. 37:912.B.(3)(4); or in accordance with commensurate requirements when certification is not available (R.S. 37:920.A.2). Effective January 1, 2002, and required for relicensure in 2003, APRNs licensed by the board in accordance with commensurate requirements when certification is not available (R.S. 37:920.A.2.) shall comply with the requirements specified in §4507.E.2. below;

c. the licensure renewal fee as specified in LAC 46:XLVII.3341.

2. APRNs initially licensed in accordance with R.S. 37:912.B(3)(4) (grand-fathered) and are not in advanced practice certified, or R.S. 37:920.A.(2) and LAC 46:XLVII.4507.A.2 whose category and area of specialization does not provide for certification/recertification (commensurate requirements) shall submit the following documentation for renewal, in addition to meeting the requirements specified above in E.1.a.-c.

a. A minimum of 300 hours of practice in advanced practice registered nursing as defined in R.S. 37:913.3.a within a 12-month period; and

b. a minimum of 2 college credit hours per year of relevance to the advanced practice role; or

c. a minimum of 30 continuing education (C.E.) contact hours approved by the board each year. Of the 30 contact hours, a maximum of 10 C.E. contact hours may be approved Continuing Medical Education (CME's).

d. The above Subparagraphs b or c will meet the C.E. Requirements for the registered nurse and the advanced practice registered nurse licensure renewal.

F. Reinstatement of an APRN License

1. Reinstatement of an APRN license, which has lapsed or been inactive for less than four years. An APRN who has failed to renew his/her license, or has had an inactive licensure status less than four years, may apply for reinstatement by submitting to the board:

a. evidence of current RN licensure;

b. completed application on a form furnished by the board;

c. evidence of current certification/recertification by a national certifying body accepted by the board; or APRNs initially licensed in accordance with R.S. 37:912.B(3)(4) or 920.A(2) and 4507.A.2 whose specialty and/or functional role does not provide for certification/recertification shall submit the following documentation with the application for reinstatement as specified in E.2.b. or c. for each year of inactive or lapsed status;

d. the required fee as specified in LAC 46:LVII.3341.

2. Reinstatement of an APRN license, which has lapsed or been inactive four years or more. If the applicant's APRN license has been lapsed or inactive for four or more

years, in addition to meeting the above requirements in §4507.F.1.a-d., the applicant shall:

- a. apply for a six-month temporary permit; and
- b. practice under the temporary permit and current practice standards set forth by the respective advanced practice nursing specialty and/or functional role; and
- c. if seeking certification/recertification successfully complete the number of clinical practice hours required by the national certifying body approved by the board, under the guidance of a preceptor approved by the board; and
- d. submit evidence of current certification by a national certifying body approved by the board; or
- e. have a minimum of 800 hours of clinical practice in the area of clinical specialization when specialty certification is not available; and
- f. submit evidence of compliance with §4507.E.2.b. or c. for each year of inactive or lapsed status; and
- g. cause to have submitted a final evaluation by the approved preceptor verifying successful completion of six months of full time practice or the equivalent hours in the area of specialization (minimum of 800 hours).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:283 (April 1996), amended LR 27:724 (May 2001).

§4509. Educational Requirements

A. An advanced practice registered nurse student means any licensed registered nurse enrolled as a student in an educational program, which prepares the individual for APRN licensure. The program must meet the board's criteria for advanced practice educational programs. All nursing education programs and courses in the state of Louisiana preparing persons for licensure and registration to practice shall be approved by the Louisiana State Board of Nursing. The authority of the board is contained in Section 918 Duties of the board, 1, 2, 3, 12, of the Louisiana Revised Statutes, Title 37, Chapter 11, Nurses, Part 1, Registered Nurses, Section 911-933, 1995, as amended through 1996. R.S. 37:911 et seq. as re-enacted and amended.

1. Approval of Advanced Practice Registered Nurse Programs. An educational program accredited by a regional accrediting body and/or a national professional accrediting body recognized by the U.S. Department of Education and whose standards comply with the following requirements shall be approved by the board. The board has the authority to delegate to the board's staff the approval of advanced practice registered nurse programs which meet the following criteria.

a. The educational program shall be an academic unit of a regionally accredited college or university which offers a graduate degree with a major in nursing or a graduate degree with a concentration in the advanced practice registered nurse category as defined in R.S.37:913.(1).

b. Advanced practice registered nurse program shall meet the educational requirements of the nationally recognized certifying body whose certification program the graduates are prepared to pursue as accepted by the board R.S.37:920.A.(2).

c. The program shall have a clearly written mission, curriculum, and outcome objectives relevant to the

respective advance practice specialty and/or functional role preparation.

d. The program has a systematic plan for program evaluation and assessment and documents the use of data in decision making for program development, maintenance, and revision.

e. The program evaluation plan shall document that the curriculum prepares graduates to meet the standards for the advanced practice registered nurse as specified in LAC 46:XLVII.4513.B.1-8.

f. Nurse faculty shall:

i. hold a current license to practice as a registered nurse in Louisiana.

ii. hold the minimum of a master's degree in nursing; may include other credentialed providers who provide content relevant to the specialty and/or functional role of the APRN being prepared;

iii. include APRN's licensed in the specialty being taught;

iv. be qualified through academic preparation and experience to teach the subject assigned and shall meet the standards for faculty appointment by the controlling institution; and

v. clinical preceptors must be licensed in Louisiana as an APRN, physician, dentist or as approved by the Board.

2. Guidelines for Advanced Practice Registered Nurse Students' Clinical Practicum

a. Advanced practice registered nursing students may perform advanced practice nursing functions under the guidance of a qualified instructor or preceptor, (as defined in LAC 46:XLVII.4505), as a part of their program of study.

b. Out-of-state schools shall request in writing to the board and have approved, any request to initiate a clinical practicum in Louisiana. The following information relative to advanced practice registered nurse student(s) shall be submitted:

i. student(s) name;

ii. the clinical practice setting;

iii. the credentials of the instructor/preceptor;

iv. evidence of RN licensure in Louisiana.

B. Types of Approval

1. Initial Approval. Initial approval shall be granted to an advanced practice nurse program, which upon application to the board, documents that it meets all standards established by the board.

2. Full Approval. Full approval shall be granted to an advanced practice nurse education program once the program provides documentation that members of the first class of advanced practice students have graduated, become certified, and licensed as APRNs in accordance with the standards established by the board.

3. Continued Approval

a. The education program shall notify the board of any recommendations and/or changes in accreditation by the appropriate regional and/or national accrediting body and/or any changes in the eligibility of its graduates to take the national certifying examination of a nationally recognized certifying body. The educational program will be reviewed by the board at any time the board determines a review is necessary to maintain the program's approval status.

b. After due process of review, if the board determines that a program is not in compliance with the

standards set forth in these rules, the board shall notify the program in writing of identified deficiencies within 60 days.

c. The program shall submit evidence of progress, which addresses correction of the identified deficiencies within six months of the board's date of citation of non-compliance. If the program fails to comply, the board shall allow for a hearing in accordance with the administrative rules; based on evidence provided, the board may withdraw approval of the program.

C. Procedure for Submitting Required Forms and Reports

1. Annual Report. The educational program shall submit a designated number of copies of an annual report on forms provided by the board, on the designated date, accompanied by a copy of the current school catalog.

2. Interim Report. The educational program shall submit a report if requested in reference to B.3.c above.

3. On-site surveys may be made at the discretion of the board, or upon request of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 27:726 (May 2001).

§4513. Authorized Practice

A. Scope of Practice. An advanced practice registered nurse shall practice as set forth in R.S. 37:913(3)(a) and the standards set forth in these administrative rules. The patient services provided by an APRN shall be in accord with the educational preparation of that APRN. APRNs practicing in accord with R.S. 37:913(3)(a) are not required to have a collaborative practice agreement. The APRN who engages in medical diagnosis and management shall have a collaborative practice agreement that includes, but is not limited to, the following provisions: (R.S. 37:913.8 and 9).

1. availability of the collaborating physician or dentist for consultation or referral, or both;

2. methods of management of the collaborative practice which shall include clinical practice guidelines;

3. coverage of the health care needs of a patient during any absence of the APRN, physician, or both parties.

B. Standards of Nursing Practice for the Advanced Practice Registered Nurse. Standards of practice are essential for safe practice by the APRN and shall be in accordance with the published professional standards for each recognized specialty and/or functional role. The core standards for all categories of advanced practice registered nurses include, but are not limited to:

1.-3. ...

4. an APRN shall use critical thinking and independent decision-making at an advanced level, commensurate with the autonomy, authority, and responsibility of the practice role and/or specialty while working with patients and their families in meeting health care needs;

5. an APRN shall demonstrate knowledge of the statutes and rules governing advanced registered nursing practice and function within the legal boundaries of the appropriate advanced registered nursing practice role;

6. an APRN shall demonstrate knowledge of and apply current nursing research findings relevant to the advanced nursing practice role and specialty;

7. an APRN shall make decisions to solve patient care problems and select medical treatment regimens in collaboration with a licensed physician or dentist;

8. an APRN shall retain professional accountability for his/her actions and/or interventions.

C. - C.10. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), and R.S. 37:1031-1034.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, and Louisiana State Board of Nursing, LR 22:981 (October, 1996), amended by the Department of Health and Hospitals, Board of Nursing and Board of Medical Examiners, LR 23:1245 (June, 1999), amended, LR 27:727 (May 2001).

§4515. Continued Competence of Advanced Practice Registered Nurses

A. Continued competence requirements shall apply as follows.

1. Maintains advanced practice recertification in accordance with the nationally recognized certifying body's criteria as approved by the board; or

2. when advanced practice certification/recertification is not available, or APRNs who are licensed by grandfathering, without advanced practice certification, the APRN shall meet the requirements for renewal as specified in the LAC 46:XLVII.4507.E.2.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:284 (April 1996), amended LR 27:727 (May 2001).

§4517. Additional Standards For Each Advanced Practice Nurse Category

A. The APRN is responsible and accountable for knowing the specific standards of practice for his/her specialty and/or functional role and for other state and federal rules and regulations that effect his/her patient population(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:284 (April 1996), amended LR 27:727 (May 2001).

Barbara L. Morvant
Executive Director

0105#039

RULE

Department of Health and Hospitals Board of Nursing

Alternatives to Disciplinary Proceedings (LAC 46:XLVII.3419)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Nursing (board) pursuant to the authority vested in the board by R.S. 37:918, R.S. 37:919 has amended the Professional and Occupational Standards rules pertaining to Alternatives to Disciplinary Proceedings. The rules are set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part XLVII. Nurses

Subpart 2. Registered Nurses

§3419. Alternative to Disciplinary Proceedings

A. Under the provisions of *Louisiana Revised Statutes* 37:911 et seq., as re-enacted and amended, the Louisiana State Board of Nursing (board) has the authority to establish and implement a recovering nurse program as an alternative to the disciplinary process. The RNP is established to assist registered nurses or student nurses who have demonstrated actual or potential inability to practice nursing with reasonable skill and safety to individuals because of use of alcohol or drugs; or who have demonstrated inability to practice nursing with reasonable skill and safety to individuals because of illness or as a result of any mental or physical condition, so that such nurses or student nurses can be treated and return to the practice of nursing in a manner which will not endanger the public health, safety and welfare. Only nurses or student nurses whose conditions have reliable indicators of ability for safe nursing practice will be eligible for participation in the RNP.

1. The purpose of the RNP is to encourage the voluntary participation of such nurses or student nurses in appropriate rehabilitative medical treatment and/or ongoing aftercare and monitoring, and to allow for the deferral of administrative proceedings of such nurses under the Louisiana Nursing Practice Law, R.S. 37:911-933.

A.2. - B. ...

1. ensure the health, safety and welfare of the public through a program that closely monitors registered nurses or student nurses whose capacity to practice nursing with reasonable skill and safety to patients has been, or may potentially be, compromised because of use of alcohol or drugs, or because of illness or as a result of any mental or physical condition;

2. promote safe nursing care by preventing and/or restricting the practice of the chemically, physically, and/or mentally impaired nurse or student nurse;

3. implement a plan for identification, referral to treatment facilities and monitoring of the chemically, physically and/or mentally impaired nurse or student nurse;

4. establish criteria for identification of a chemically, physically and/or mentally impaired nurse or student nurse;

5. ...

6. provide a structured program for nurses and student nurses seeking recovery from the impairment through a non-punitive process;

7. provide educational programs to the health care community related to the identification and intervention of chemically, physically and/or mentally impaired nurses or student nurses, subsequent treatment alternatives, and monitoring.

C. ...

* * *

Confidentiality Call records of a nurse or student nurse who has successfully completed or is in the non-disciplinary alternative program shall not be subject to public disclosure, and shall not be available for discovery proceedings except as required by federal and state confidentiality laws and regulations. The records of a nurse or student nurse who fails

to comply with the Program Agreement or who leaves the program without enrolling in a alternative program in the state to which the nurse moves, or who subsequently violates the Nurse Practice Act or the rules of the board, shall not be deemed confidential except for those records protected by Federal and State confidentiality laws and regulations.

Impaired Nurse Ca registered nurse or student nurse who has demonstrated actual or potential inability to practice nursing with reasonable skill and safety to individuals because of use of alcohol or drugs; or has demonstrated inability to practice nursing with reasonable skill and safety to individuals because of illness or as a result of any mental or physical condition.

* * *

Recovering Nurse Program (RNP) Ca program established by the board to identify and assist registered nurses, registered nurse applicants and student nurses whose capacity to practice nursing with reasonable skill and safety to patients has been, or may potentially be, compromised because of use of alcohol or drugs, or because of illness or as a result of any mental or physical condition.

* * *

Student Nurse Can individual who is enrolled in a Louisiana State Board of Nursing approved program preparing for licensure as a registered nurse.

D. - D.2 ...

3. ...

a. licensed registered nurse who resides in the state of Louisiana; or graduate of a school of nursing who is eligible for licensure in Louisiana; or registered nurse currently enrolled in a peer assistance program and who is requesting endorsement from another state; or registered nurse currently enrolled in a peer assistance/alternative program and who is licensed in Louisiana and is requesting transfer back to Louisiana, or a student nurse enrolled in a Louisiana State Board of Nursing approved program;

b. ...

c. addicted to or uses alcohol and/or other mood altering substances including prescription drugs, or has a physical or mental condition, which impairs or potentially impairs the ability of the nurse or student nurse to perform duties safely;

d. no previous disciplinary action within the past two years. No previous peer assistance/alternative program participation unless first relapse uncomplicated by previous history;

e. - i. ...

j. agrees to comply with all RNP specifications and signs Program Agreement including statement of admission of chemical dependency or other impairment.

E. - E.1. ...

2. A registered nurse or student nurse seeking confidential entry into the Recovering Nurse Program (RNP) is initially interviewed by the board's professional staff, the employer, and/or a qualified clinician to assess the registered nurse or student nurse's immediate needs, to identify and evaluate the nature and extent of the nurse's or student nurse's impairment, and to determine the nurse's or student nurse's motivation for seeking entry into the program. Eligibility for entry into RNP is based upon the criteria in §3419.D.

3. The board reserves the right to require participation in RNP of any impaired individual who has disciplinary action on their license or who is seeking licensure or who is enrolled in an approved program preparing for licensure as a registered nurse.

4. - 6.c. ...

d. A participant's failure to comply with the RNP agreement may constitute grounds for disciplinary action.

F. ...

1. For nurses or student nurses who have met criteria in §3419.D. and have entered the program confidentially with no disciplinary action will progress according to the guidelines established by the board.

2. Nurses or student nurses who are admitted by disciplinary action will progress according to guidelines established by the board.

G. ...

1. A participant who moves from Louisiana to another state with an alternative program shall have records transferred to that program.

2. A participant nurse or student nurse who moves to a state where there is no alternative program shall have the nurse's records transferred to the board in the receiving state and notification of same to Nursing Consultant for Compliance.

H. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 24:1293 (July 1998), amended LR 27:728 (May 2001).

Barbara L. Morvant, R.N.
Executive Director

0105#027

RULE

**Department of Health and Hospitals
Board of Nursing**

**Continuing Education/Nursing Practice
(LAC 46:XLVII.3335)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Nursing (board) pursuant to the authority vested in the board by R.S. 37:918 and R.S. 37:919 has amended the Professional and Occupational Standards rules pertaining to Continuing Education/Nursing Practice. The rules are set forth below.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLVII. Nurses

Subpart 2. Registered Nurses

§3335. Continuing Education/Nursing Practice

A. ...

B. Definitions for the Purposes of §3335.

*Full-Time Nursing Practice*Ca minimum of 1,600 hours, per year, of employment as a registered nurse or full-time equivalency requirements set forth by the employer. For self-

employed, home health, and contract nurses, a minimum of 1,600 documented nursing practice hours, exclusive of travel, per calendar year, is accepted as full-time employment. Documentation of practice hours shall include paycheck stubs and a log record of actual hours worked.

C. - G.10.a. ...

b. submit applications for three proposed continuing education activities; if approved, a provider number will be issued for the first three programs as a condition of the process to become approved to be a continuing education provider;

c. fees payable upon submission of an application for total initial provider unit review are \$800 for two years, with \$100 being non-refundable. The fees for individual continuing education activity approval for the first three programs in preparation to be a provider are \$75 (non-refundable) plus \$10 for each contact hour of instruction, up to a maximum of \$700. A fee of 25 percent of the original fee, with a minimum of \$30, is payable for an extension of the approved status.

11 - 11.b. ...

c. fees payable upon submission of an application for total provider unit review for re-approval are \$800 for two years or \$1,600 for four years, with \$100 being non-refundable.

H - H.1.b.iv. ...

(a). a philosophy and/or mission of continuing education;

(b). - 2. ...

a. Individual offerings, as a pre-requisite for provider status, shall be submitted to the board at least 90 calendar days prior to implementation of the continuing education activity.

H.2.b. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:911, R.S. 37:918(4)(12) and R.S. 37:920(E).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:74 (March 1981), amended by the Department of Health and Hospitals, Board of Nursing, LR 24:1293 (July 1998), LR 25:514 (March 1999), LR 27:729 (May 2001).

Barbara L. Morvant
Executive Director

0105#026

RULE

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

Home and Community Based Services Waiver Program
Mentally Retarded/Developmentally Disabled Waiver Request for Services Registry

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals transfers responsibility for the waiting list for the Mentally Retarded/Developmentally Disabled (MR/DD) Waiver to the Bureau of Community Supports and Services (BCSS). Regional MR/DD Waiver waiting lists shall be consolidated into a single statewide request for services registry arranged in order of the date and time of the initial request. Those persons on regional waiting lists prior to the date of the transfer of responsibility to BCSS shall be placed on the request for services registry in the order of the date and time on record when the candidate initially requested a slot in the waiver, subject to a subsequent determination that he/she meets the criteria for inclusion on the registry. When a candidate is listed on more than one regional waiting list, the earliest date and time on record shall be considered the initial request. Persons who wish to be added to the request for services registry shall contact a toll-free telephone number maintained by BCSS. In addition, the department adopts the following regulations governing the request for services registry for the MR/DD Waiver.

A. Inclusion Criteria

1. **Persons Currently on the Waiting List.** Persons on the waiting list prior to October 27, 2000, shall be screened to determine whether they are legitimate candidates for waiver eligibility. Only persons found to meet the criteria for candidacy shall be placed on the request for services registry. However, if a waiver slot becomes available before the next person on the waiting list has been screened, that person shall be allowed to make application for the slot.

2. **Entry to the Request for Services Registry.** On or after October 27, 2000, persons who wish to be entered on the request for services registry shall be screened to determine whether they are legitimate candidates for waiver eligibility prior to their name being placed on the registry. Only persons who meet the criteria for candidacy shall be added to the registry for waiver services.

3. **Waiver Candidacy.** The candidate must provide documentation that there is a reasonable expectation that he/she meets the state's definition of being mentally retarded or developmentally disabled. In addition, the candidate must appear to meet the financial, disability, nonfinancial and ICF-MR level of care criteria for Medicaid eligibility, according to his/her own statement or the statement of a responsible party.

B. Exclusion Criteria

1. **Failure to Cooperate.** Potential candidates who fail to provide requested documentation or otherwise fail to cooperate within a reasonable length of time shall be excluded from the registry. The potential candidate shall be informed of the time limits involved when the information is requested.

2. **Insufficient Documentation of Disability.** Documentation of the type and degree of disability must support the contention that the potential candidate meets the state's definition of mentally retarded or developmentally disabled.

3. **Ineligibility Determined during Pre-screening.** Persons who do not meet the eligibility criteria for an ICF-MR level of care according to their own statement on a pre-screening tool devised by BCSS shall be eliminated from the MR/DD waiver request for services registry.

4. **Subsequent Determination of Ineligibility.** BCSS may exercise its authority to eliminate a potential candidate from the registry when information provided about the potential candidate's situation indicates that he/she would not be eligible if he/she were to apply at the present point in time. For example, a candidate could not become eligible for a waiver slot if the candidate moved out of state with the intent to become a resident of that state, or was incarcerated and placed under the jurisdiction of the penal authorities, courts, or state juvenile authorities.

David W. Hood
Secretary

0105#082

RULE

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

Adult Denture Program Service Locations

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes requirements for Adult Denture Program providers reimbursed under the Medicaid Program and conducting business at locations other than their principal place of practice. Adult Denture Program providers shall provide the physical address and business telephone number of their principal place of practice to the Provider Enrollment Unit and DHH dental consultants (LSU School of Dentistry). This address must be on file with the Louisiana Board of Dentistry. Records documenting the services provided shall be maintained at this location. To be eligible for reimbursement under the Adult Denture Program, the service must be performed in either the parish where the provider's principal place of practice is located, any surrounding parish with a contiguous border of at least one mile, or any parish with a land border of at least one mile contiguous with those parishes.

David W. Hood
Secretary

0105#080

RULE

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

Home Health Program Rehabilitation Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following Rule under the Medical Assistance Program as

authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing expands home health services under the Medicaid Program to include coverage of occupational therapy and speech therapy. In addition, the bureau amends the March 20, 1996 rule governing reimbursement for home health services to establish new reduced rates for home health rehabilitation services that are the same as the rates paid for outpatient hospital rehabilitation services. Home health rehabilitation services include physical, occupational and speech therapies. All home health rehabilitation services must be prior authorized through the fiscal intermediary's Prior Authorization Unit in order to receive payment.

David W. Hood
Secretary

0105#081

RULE

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

**Public Nursing Facilities
Reimbursement Methodology**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Bureau of Health Services Financing creates an enhanced payment pool for qualifying nursing facilities, subject to the availability of funds and to the payment limits as set forth in 42 CFR 447.272.

Qualifying nursing facilities are parish-owned nursing facilities that meet the following criteria: 1) have an annual Medicaid occupancy level at or above 60 percent; 2) provide 12,000 or more Medicaid days of care annually; and 3) have entered into, or be part of a parish government that has entered into, a transfer agreement with the department to provide for an intergovernmental transfer of funds.

The nursing facility payment differential for any year shall be the difference between the upper limit of aggregate payments to nursing facilities as defined in 42 CFR §447.272 and the aggregate Medicaid per diem reimbursement paid to nursing facilities for the year. This is determined for all nursing facilities participating in the state's Medicaid Program, or for a subset of these facilities that includes parish-owned nursing facilities for which a

separate upper payment limit calculation is in effect in that year as required by 42 CFR §447.272.

Total payments from the pool in any year shall not exceed a percentage of the nursing facility payment differential that will be determined by the department for each payment year. The enhancement pool payment amount shall be distributed to qualifying parish-owned nursing facilities based on their pro-rata share of the total annual Medicaid days of care of all qualifying parish-owned nursing facilities. Determination of annual Medicaid occupancy level and Medicaid days of care shall be based on the most recently filed cost reports on file with the department. Implementation of this Rule is subject to approval by the United States Department of Health and Human Services, Health Care Financing Administration.

David W. Hood
Secretary

0105#084

RULE

**Department of Health and Hospitals
Bureau of Health Services Financing**

**Professional Services Program
Physician Services**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following Rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing restores the 7 percent reduction that was previously made to the reimbursement fees paid to physicians for selected locally-assigned HCPCs and the following CPT procedure codes: surgery codes (10040-69979), medicine codes (90281-99199), evaluation and management codes (99201-99499), radiology codes (70010-79999) and pathology and laboratory codes (80048-89399). In addition, the reimbursement fees for certain designated procedure codes is increased to the following rates:

	Evaluation and Management		
99212C	\$30.13	99213C	\$36.13
99215C	\$49.63	99283C	\$35.23
		99214C	\$41.13

	Follow-up Prenatal Visit	
Z9005	C\$33.43 (03*)	\$36.13 (09*)
* type of service		

David W. Hood
Secretary

0105#083

RULE

Port Commission Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots

Steamship Pilots (LAC 46:LXXVI.Chapter 1)

Editor's Note: The following Rule, which appeared on pages 1064-1067 of the May 20, 2000 edition of the *Louisiana Register*, is being repromulgated in its entirety to correct codification errors.

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners for the Mississippi River hereby repeals the prior rules enacted in Louisiana Register, Vol. 14, number 5, May 20, 1988 and hereinafter promulgates re-enactment of those previous rules and/or promulgates rules as to definitions, appointments of commissioners, rules and records of meetings, examination of pilots, ability to form an association, report of incompetency and removal of pilots, together with rules of minimum requirements, applicants, examination, and appointments relative to the commission of steamship pilots.

As per state law, in order to further enhance the safety and well being of the citizens of Louisiana, as well as prevent any possible imminent peril to public health, safety, and welfare, the Board of New Orleans-Baton Rouge Steamship Pilot Commissioners for the Mississippi River from the Port of New Orleans to and including the Port of Baton Rouge and intermediate ports adopts the following actions pertaining to the rules and regulations:

1. Abolish the existing rules in order to clarify the purpose, authority and procedures of the Commission. This is accomplished via constructing new rules in lieu of the amendment process.

2. The new rules are formulated using existing Louisiana Statutes, the intent and procedural precedents of the prior rules as a foundation for effecting a cleaner and more efficient system for oversight of the pilotage under the commission's jurisdiction.

In substance, the new rules differ from the old in that they clarify the method and guidelines for making recommendations to the governor, selecting new commissioners, as well as defining the commission's authority and funding. The new document updates the criteria for rulemaking and application, record keeping, notices and meetings. Further, the new regulations provide for higher standards and qualifications for applicants and associations, and clearly define the commission's legal authority and duty in the investigative and disciplinary process.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXVI. Steamship Pilots

Chapter 1. New Orleans and Baton Rouge Port Pilots

§101. Definitions

Association shall mean pilot members of the New Orleans-Baton Rouge Steamship Pilot Association.

Board of Commissioners (hereinafter used interchangeably as Board, Commission, or Examiners) shall *Louisiana Register Vol. 27, No. 05 May 20, 2001*

mean the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners for the Mississippi River, as designated in R.S. 34:1042.

Examiner shall mean those individuals appointed as per law.

Master License shall mean the license issued by the United States Coast Guard.

Pilot shall mean a New Orleans and Baton Rouge Steamship Pilot, as designated in R.S. 34: 1043.

Service Time shall mean the applicant's service time on the Mississippi River.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:1065 (May 2000), repromulgated LR:732 (May 20, 2001).

§103. Board of Steamship Pilot Commissioner

A. When there is a need for new commissioners, the Board of Commissioners shall make the recommendations to the governor in accordance with the law and in compliance with the commission rules.

B. When this need arises, the commissioners shall take into consideration the following in making their recommendations:

1. ability to serve;
2. qualifications;
3. length of service as a commissioned pilot.

C. Commissioners in the performance of their statutory duties have the exclusive and complete authority to determine their work schedule. Further, commissioners shall not suffer any loss of benefits or compensation while they are performing their duties.

D. All ordinary and necessary operating and administrative costs and expenses, including, but not limited to, the cost of administrative offices, furniture and fixtures, communications, transportation, office supplies and equipment, publications, travel, pilot commissioners' compensation, attorney fees, expert fees, costs, expenses of litigation or any other expenses whatsoever incurred by the commission while performing their/ its duties shall be provided by the pilots and paid through their pilot association.

E. The Commissioners shall maintain an office and conduct business as is necessary to fulfill its legislative manda and/or as may be required by the rules herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:1066 (May 2000), repromulgated LR:732 (May 20, 2001).

§105. Rules, Records, Meetings, Application

A. All commission rules must be adopted by a majority of the commissioners, further, they must be submitted for legal approval before they are submitted for final approval and adoption. The Board of Commissioners shall maintain records in accordance with R.S. 49:950 et seq., and any other state laws. The Board of Commissioners shall file an annual report of investigations, findings, actions and accident data in accordance with state laws. The Board of Commissioner shall conduct its meeting in accordance with R.S. 49:950 et seq., and any other state laws.

B. The commissioners shall hold quarterly meetings on the call of the president. The president has the prerogative of

calling additional meetings as needed to conduct business on giving said notice as per law.

C. These rules shall apply to all New Orleans and Baton Rouge Steamship Pilots engaged in his/her calling within the operation territory defined in R.S. 34:1043.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:1065 (May 2000), repromulgated LR:732 (May 20, 2001).

§107. Minimum Requirements, Applicants, Examination, Appointments

A. All applications for commissions to serve as a New Orleans and Baton Rouge Steamship Pilot must be in writing, must be signed by the applicant, and presented to the President of the Board for commissioner. All applications must be accompanied by satisfactory evidence of compliance with the following prerequisites:

1. applicant must hold a First Class Pilot's License of "any" gross tons, (the word "any" as interpreted by the United States Coast Guard) for the Mississippi River from Chalmette, Louisiana, to Baton Rouge Railroad and Highway Bridge at Baton Rouge, Louisiana issued to him or her by the United States Coast Guard, and

2. also be licensed as:

a. Master of Rivers or Inland Steam or Motor vessels; or

b. licensed as Master or Mate of Ocean Steam or Motor vessels; or

c. have acquired a college degree or an associates degree granted by a college or university accredited by the American Association of Colleges and Secondary Schools; and

3. must have completed a Ship Handling Simulator course and a Bridge Resource Management course or any other industry related course that the Board of Examiners may deem as relevant and necessary.

B. As of January 1, 2005, all applicants for commission to serve as New Orleans and Baton Rouge Steamship Pilots, in addition to Section A (1)(2) and (3) hereinabove:

1. must be licensed as Master of Rivers or Inland Steam or Motor vessels; or

2. must be licensed as Master or Mate of Ocean Steam or Motor vessels, and must have one year service on his or her license; or

3. must have successfully acquired an associates degree or have achieved an equivalent of sixty hours of credit from an accredited college or university, and must have six month service on his or her license; or

4. must have achieved a college degree from an accredited college or university and must have one year service on his or her license.

C. As of January 1, 2010, all applicants for commission to serve as New Orleans and Baton Rouge Steamship Pilots must, in addition to Section A(1)(2) and (3) hereinabove:

1. must be licensed as Master of Rivers or Inland Steam or Motor vessels of 1600 gross tons; or

2. must be licensed as Master or Mate of Ocean Steam or Motor vessels of 1600 gross tons and have two years service on his or her license; or

3. must have successfully acquired an associates degree, or have achieved an equivalent sixty hours of credit

from an accredited college or university, and have one year service on his or her license; or

4. must have successfully acquired a college degree from an accredited college or university.

D. Applicant shall not have reached his or her forty-fifth birthday before being commissioned.

E. Applicant must submit evidence of possessing a high school diploma or G.E.D.

F. Applicant must be a registered voter of the State of Louisiana for a minimum of one year.

G Applicant must submit evidence of good moral character.

H. Applicant must submit to the Board of Examiners, a certificate that applicant is in good health and physical condition and such examination shall meet approved maritime standards.

I. Applicant must submit to and pass a drug screen test that is dated within 30 days of the application submission.

J. Applicant must sign an obligation to abide by the Charter, By-Laws, Rules and Regulations of the New Orleans and Baton Rouge Steamship Pilots Association and the Board of Commissioners.

K. Applicant must have been duly elected an apprentice in the New Orleans Baton Rouge Steamship Pilots Association as per such Association Rules in effect as of such application.

L. Applicant must serve an orientation period over the route, as an apprentice ship pilot, for not less than 12 months, which may be extended up to one additional year as may be determined by the Board of Pilot Commissioners. If after the one year extension apprenticeship period the applicant fails to meet the criteria and standards of the Board, then said applicant shall be released from the apprenticeship program. The criteria and standards of the Board include but are not limited to:

1. an applicant's recklessness and display of lack of judgment;

2. disregard of state rules, laws, and regulations;

3. disregard of Coast Guard rules and regulations;

4. unfit for the position and job of a river pilot;

5. lack of moral integrity, veracity, ability, capability, and any other such issues, complaints, or questions brought by any responsible party to the attention of the Board.

M. Examination by the Board of Commissioners

1. All applicants must successfully complete an oral and/or written examination to be conducted by the Board of Commissioners.

2. Those applicants who have complied with all of the provisions herein shall be examined by the Examiners as to the applicant's knowledge of pilotage and demonstrate the applicant's proficiency and capability to serve as commissioned pilot. This examination shall be given in such a manner and shall take such form as the Board, in its sole discretion, from time to time as the Board shall determine.

N. Restrictive Job Assignments

1. Those applicants who satisfactorily complete the examination given by the Board shall be certified to the governor as per law. Such certifications may be restrictive in job assignments, including but not limited to, vessel size and/or draft for new appointees for a specified period of time.

2. Restrictive job assignment period shall be 24 months in duration; this period shall be in 3 periods of 8 months each during which the pilot will be assigned vessels of a restricted size to be determined and set by the Commission; after each 8 month period the applicant may graduate to a larger size vessel, all to be determined by the Commission; the vessel size limitation for these restricted periods shall be established exclusively by the Commission; such limitations shall be at the unilateral discretion of the Commission at all times material hereto; limitations established by the Commission shall be based, but not exclusively, on a ratio of the most recent Association determination of the average size vessel piloted on the Commission route.

O. Commissioned pilots shall comply with all requirements to maintain their state commission and such other certifications as determined by the Board of Pilot Commissioners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:1065 (May 2000), repromulgated LR:733 (May 20, 2001).

§109. Association of Pilots

A. The pilots may form themselves into an association or associations, as to they may seem fit, not in conflict with the rules and regulations of the Board of Commissioners.

B. The formation of any association incorporated or non-incorporated which is for the purpose of providing pilotage service under the law, including but not limited to R.S. 34:1047, must be submitted to the Commission for approval. Such applications must meet all legal requirements, provide for a stable pilotage system, serve the best interest of the majority of pilots and protect the life and property of the region.

C. The Board of Commissioners hereby recognizes the fact that the New Orleans and Baton Rouge pilots have formed themselves into a legal registered corporation known as the New Orleans and Baton Rouge Steamship Pilots Association; further, let it be recognized by the Commission that the said pilot Association has operated and is now operating within all state laws and is not known to be in conflict with the rules and regulations of the Board of Commissioners.

D. No pilot association, incorporated or non-incorporated, has any authority to impose or legislate any rules, bylaws or charter provisions affecting the Commission; further, any attempt to exercise any authority over or affecting the commission is a violation of the rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:1066 (May 2000), repromulgated LR:734 (May 20, 2001).

§111. Report of Incompetency, Carelessness of Pilots, Removal, Suspension

A. In any case, where a vessel under pilotage shall go aground, or shall collide with any other object, or shall meet with any casualty, or be injured or damaged in any way, said Commission shall conduct a preliminary investigation into the casualty to determine if there are any violations of the law or commission rules.

B. When probable cause is found, said commission shall report its findings to the governor. The governor shall, thereupon, refer the case to the Board of Commissioners for formal investigation. The Board shall investigate and report its findings with recommendations to the governor, whereupon, the governor may take action in his discretion.

C. All formal investigations shall be conducted in accordance with R.S. 49:950 et seq.

D. In any case, where a vessel under pilotage shall go aground, or shall collide with any other object, or shall meet with any casualty, or be injured or damaged in any way, said pilot shall report such casualties as follows:

1. report the casualty by whatever means available to the Board of Commissioners as soon as practical;

2. be available for interview by the commission and furnish complete details of the casualty;

3. make a written report to the Board of Commissioners as soon as practical.

E. Interviews and written reports to the board, which may thereupon, with or without complaint being made against said pilot, investigate the matter reported on.

F. Any pilot who shall, neglect, or refuse to make a verbal or written report to the Board as required by these rules, shall be reported to the Governor for action pursuant to law.

G. Any pilot requested or summoned to testify before the Board shall appear in accordance with said request or summons and shall make answers under oath to any questions put to him/her related to or in any way connected with the pilot's service or the pilot's territory over which he/she is licensed to pilot.

H. In any case, where the commission finds or suspects a violation of the law, or in a violation of its rules, they may charge the pilot with misconduct and remove him from duty, however, this rule shall not abrogate any of his/her rights pursuant to all applicable laws.

I. When an investigation uncovers dangerous and/or unsafe condition and/or conditions that may jeopardized the interests, safety, health, or welfare of the pilots, vessels, cargo, property or individuals, the Commission may make recommendations for the corrective measures.

J. A pilot shall not under any circumstances make any statement to anyone until such pilot or pilots have has legal counsel when he/she is involved in a casualty, or any other complaint.

L. Any commissioner who with probable cause and/or has reason to believe, suspect, and/or knows that a pilot is or has been or may be under the influence of drugs, alcohol, or any other stimulant or depressant that may affect the performance of that pilot, or has been charged with misconduct, while subject to commission rules and/or state pilotage laws, that Commissioner in his/her discretion may immediately relieve that pilot without the necessity of formal notice and hearing from pilotage duty, in order to protect the interest, safety, health or welfare of fellow pilots, vessels, cargo, property or individuals. Further, at the earliest practical time, the Commission must request permission from the Governor, per law, to conduct the appropriate formal hearing or hearings which satisfies and protects the due process and equal protection requirements as afforded that pilot by the state and federal constitutions.

M. No person shall engage in any activities concerning the members of the New Orleans and Baton Rouge

steamship pilots unless said person has been elected or appointed to do so by one of the governing boards.

N. No member of the Board of Pilot Commissioners, in the discharge of his/her duty or responsibility of his/her office will vote on a matter in which he/she is a party to or has a conflict of interest. In such cases, he/she shall automatically be recused from participating in or voting on such matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:1066 (May 2000), repromulgated LR:734 (May 20, 2001).

§113. Severability

A. It is understood that any provision and/or requirement herein that is deemed invalid and unenforceable for any reason whatsoever, that it may be severed from the whole and that the remaining provisions and/or requirements shall be deemed valid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:1067 (May 2000), repromulgated LR:735 (May 20, 2001).

Martin W. Gould, Sr.
President

0105#038

RULE

**Department of Public Safety and Corrections
Board of Private Security Examiners**

Alcohol Restrictions (LAC 46:LIX.703)

Under the authority of the Private Security Regulatory and Licensing Law, R.S. 37:3270 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the executive secretary has amended the Louisiana State Board of Private Security Examiners Regulations, LAC 46:LIX.703, as follows.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIX. Private Security Examiners

Chapter 7. Insignias, Markings, Restrictions

§703. Alcohol Restrictions

A. No licensee, as defined in R.S. 37:3270 et seq., shall sell, dispense or handle alcoholic beverages of high or low alcohol content, or in any manner perform those functions for which a permit is required by R.S. 26:932, while on duty as a security officer as defined in R.S. 37:3272. Further, in no event shall any licensed security officer sell, dispense, or handle alcohol while in uniform, regardless of whether or not such officer is on duty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR

13:757, (December 1987), amended LR 15:14 (January 1989), LR 27:735 (May 2001).

Wayne R. Rogillio
Executive Secretary

0105#035

RULE

**Department of Social Services
Office of Community Services**

**Reimbursement Rates for Residential Facilities
(LAC 67:V.3503)**

The Department of Social Services, Office of Community Services, has amended rule LAC 67:V.3503.A - D.

Title 67

SOCIAL SERVICES

Part V. Office of Community Services

Subpart 5. Foster Care

**Chapter 35. Payments, Reimbursables and
Expenditures**

§3503. Reimbursement Rates for Residential Facilities

A. Office of Community Services (OCS) will implement a competitive solicitation process as a means to select all private residential facility-based programs to serve foster children and to establish per diem rates for that residential service. The departments published Prospective Provider Procedure will be followed.

B. Individuals and/or agencies currently providing residential services to OCS foster children and those that contact the Department of Social Services, Office of Community Services (OCS) wishing to provide residential services to foster children funded by OCS are placed on a prospective provider list. All persons and agencies on the list will be notified at the time that the office seeks to develop residential services for foster children in a specific geographic area. The current and prospective residential providers will be mailed a full description of the type and scope of programs sought in geographic areas along with an invitation to submit to OCS a proposal for that service. The notification will include a list of other materials that providers may request/need to assist proposers in preparation of their proposals. The name and telephone number of an OCS representative will be given to prospective providers to contact for more information.

1. A committee of professionals from OCS will evaluate the proposals according to criteria included in the packet of materials. The committee will select the program(s) most fitting the needs of the foster care program.

C. Each proposal will include a submitted per diem cost bid with a budget in accordance with the instructions for the solicitation. This competitive process, resulting selections and final negotiations constitutes OCS rate setting process as rates will be based on market economy and proposers fiscal projections for programs. The final rate for each provider can be negotiated down from the bid rate, but in no case will be higher than the bid rate. The use of the residential beds at the rate set through this process will be done on a case-by-case basis by the OCS case worker(s) as

the need arises. There are no guarantees of specific sums of monthly or annual payments or referrals of clientele.

D. The department reserves the right to cancel the solicitation if the expenditures for the aggregately selected proposals would result in OCS exceeding available funds. In the event the department cancels the solicitation process, the department will freeze the rates for the current programs at the current amount. For rates issued for the 2000/2001 rate year, the department continues freezing the rates at the 1999/2000 amount.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1084.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 14:542 (August 1988), amended LR 20:898 (August 1994), LR 25:1144 (June 1999), LR 25:1609 (September 1999), LR 26:24 (January 2000), LR 26:1342 (June 2000), LR 26:2665 (November 2000), LR 27:735 (May 2001).

J. Renea Austin-Duffin
Secretary

0105#037

RULE

**Department of Social Services
Office of Family Support**

**FITAPC Income -Producing Property
(LAC 67:III.1235)**

The Department of Social Services, Office of Family Support, has amended the Louisiana Administrative Code, Title 67, Part III, Subpart 2, the Family Independence Temporary Assistance Program (FITAP).

Pursuant to the authority granted to the Department by the Louisiana Temporary Assistance to Needy Families (TANF) Block Grant, the agency has amended §1235 to add real property which annually produces income consistent with its fair market value as an exclusion from resources for purposes of determining eligibility. The income from the property will continue to be counted in determining eligibility.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

**Subpart 2. Family Independence Temporary
Assistance Program (FITAP)**

**Chapter 12. Application, Eligibility, and Furnishing
Assistance**

Subchapter B. Conditions of Eligibility

§1235. Resources

A. Assets are possessions which a household can convert to cash to meet needs. The maximum resource allowable for an assistance unit is \$2,000. All resources are considered except:

1. - 21. ...

22. real property which annually produces income consistent with its fair market value, even if only used on a seasonal basis. Such property includes rental homes and vacation homes.

B. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:231.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2451 (December 1999), amended LR 27:736 (May 2001).

J. Renea Austin-Duffin
Secretary

0105#025

RULE

Department of Treasury

**Credit Card Acceptance by State Agencies
(LAC 71:I.Chapter 9)**

In accordance with the applicable provisions of the Administrative Procedures Act. R.S. 49:950, et seq., the Department of the Treasury has adopted the following rule entitled "Credit Card Acceptance by State Agencies," in accordance with R.S. 49:316.1.

Title 71

TREASURY

Part I. Treasurer

**Chapter 9. Credit Card Acceptance by State Agencies
§901. Purpose**

A. It is the intent of the state to accept payment of any obligation including, but not limited to, taxes, fees, charges, licenses, service fees or charges, fines, penalties, interest, sanctions, stamps, surcharges, assessments, obligations or any other similar charges by credit cards, debit cards or similar payment devices approved by the treasurer. The state recognizes the expanding role of electronic commerce ("e-commerce") in conducting business and the state is taking steps to become an active participant with the development of the "E-Mall", the state's one-stop shopping internet web site. Electronic payment methods, including credit cards, debit cards and similar devices is a vital link in "e-commerce". In order to incorporate these payment methods, Treasury has developed and promulgated guidelines in accordance with R.S. 49:316.1.

§903. Definitions

Payment CardCa valid credit or debit card or similar payment device which is designated by the treasurer as acceptable by any state entity to make payment for any state obligations.

Card ProviderCthe issuer of a credit card, debit card or similar device who has contracted with Treasury for acceptance of their payment card or a financial institution which has contracted with Treasury for processing of card payments.

Card HolderCthe person a credit card, debit card or similar device has been issued or an authorized user of a payment card.

ObligationCtaxes, fees, charges, licenses, service fees or charges, fines, penalties, interest, sanctions, stamps, surcharges, assessments, obligations and any other similar charges or obligations.

Provider BillingsCthe manner in which the card providers will bill the state for the settled card payment transactions.

State ChargeCa fee established by the treasurer in the form of a uniform dollar amount or percentage assessed for all types of cards or devices accepted by state entities.

Merchant Account Number—the account number assigned by the Card Provider to the state entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:316.1.

HISTORICAL NOTE: Promulgated by the Department of Treasury, LR 27:736 (May 2001).

§905. Application for Credit Card or Similar Devices

A. The treasurer will negotiate and enter into contracts, with card provider(s) not to exceed five years, for acceptance of credit card, debit card and similar payment devices. The treasurer will seek to achieve uniform implementation and standard terms and provisions with respect to the acceptance of payments by state entities. A state entity may recommend that the treasurer consider a specific credit or debit card for approval. Annually, the treasurer will publish on the treasurer's website a list of approved credit card, debit card or similar devices by which any state entity will be authorized to accept for payment of any obligation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:316.1.

HISTORICAL NOTE: Promulgated by the Department of Treasury, LR 27:737 (May 2001).

§907. Acceptance of Cards by the State Entities

A. The state, through any department, agency, board or commission or other state entity, may accept payment of any obligation by credit card, debit card and similar payment devices approved by the Treasurer. Each entity will apply for participation by completing a merchant service agreement. The original completed application must be delivered to treasury. Treasury will review the application for correctness and forward the application to the card provider for processing.

B. The agency may not set a per order minimum and/or maximum dollar transaction amount that an agency may accept payment by a payment card in compliance with card service agreements. State entities shall not institute or adopt any practice that discriminates or provides unequal treatment for any payment card versus any other payment card.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:316.1.

HISTORICAL NOTE: Promulgated by the Department of Treasury, LR 27:737 (May 2001).

§909. Operating Procedures

A. Treasury will determine procedures that state entities must comply with to accept payment by payment card(s). These procedures, may be modified from time to time, to accommodate the state's accounting policies or treasury contract(s) for acceptance of payment card(s). Treasury will provide written procedures to participating state entities. These procedures will provide uniform implementation and standard terms and conditions for acceptance of payments by state entities. These procedures will determine:

1. the manner in which authorization is obtained by state agencies prior to making the card sales;
2. preparation of sales slips;
3. handling of card member refunds and credits;
4. settlement of transactions;
5. charge back rights;
6. card member disputes;
7. billing inquires;
8. retention of records; and
9. any other contract matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:316.1.

HISTORICAL NOTE: Promulgated by the Department of Treasury, LR 27:737 (May 2001).

§911. State Charge

A. Treasury, from time to time, will negotiate with card providers for a fee for processing payment card transactions with state entities. Treasury will seek to achieve a reasonable fee that reflects the economies of scale achieved by negotiation for a statewide fee applicable to all state entities. The fee may be composed of a percentage and/or a specific dollar amount as determined by treasury and the card provider.

B. The state charge shall encompass these various fees charged by card providers and include other applicable fees including fees by third party processors, or fees assessed by providers of Internet payment processing services. The state charge shall be a uniform dollar amount and/or percentage designated by the treasurer for all card types. The state charge will be revised from time to time and the state treasurer shall notify state entities of the revised state charge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:316.1.

HISTORICAL NOTE: Promulgated by the Department of Treasury, LR 27:737 (May 2001).

§913. Fees

A. Each state entity shall assess a state charge for each payment transaction a payment card is accepted.

B. The state charge will be classified by the state entity into a fund designated by the treasurer. Each card issuer will provide to the treasurer and the entity a monthly billing detailing the amount of charges by merchant name and merchant account number. The entity will review the monthly billing and pay the invoice from the fund pursuant to an appropriation for this purpose by the legislature.

C. Each state entity will review the monthly billings and resolve discrepancies directly with the card provider(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:316.1.

HISTORICAL NOTE: Promulgated by the Department of Treasury, LR 27:737 (May 2001).

Ron Henson
First Assistant

0105#033

RULE

Department of Treasury Teachers' Retirement System

Optional Retirement Plan (ORP)
(LAC 58:III.1501)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Trustees of Teachers' Retirement System of Louisiana has adopted a policy governing the marketing of the Optional Retirement Plan (ORP) to eligible members.

Title 58
RETIREMENT

Part III. Teachers' Retirement System of Louisiana
Chapter 15. Optional Retirement Plan (ORP)

§1501. Marketing Guidelines

A. The objective of these guidelines is to provide eligible employees a clear understanding of the ORP and TRSL retirement plans through a fair and balanced presentation.

B. In order to assure that eligible employees have all the information needed to make informed and unbiased decisions, they should be encouraged by their employers to talk to all three ORP carriers.

C. Each carrier should be provided the names of all newly eligible employees and their addresses at least once every semester. After these new employees have been counseled by the employer's personnel office staff on TRSL and other benefits, each carrier will then be permitted to initially contact the eligible employee at work, by phone, or by mail, to request a mutually agreed upon time for a personal presentation, if the eligible employee desires such a meeting. No high-pressure sales methods or multiple contacts may be used by the ORP sales representatives. All presentation materials presented to eligible employees by the ORP carriers will have to be reviewed and approved by TRSL prior to their distribution. This is to include all sales material and video presentations.

D. During any individual presentations, the carriers may provide the eligible employee with written comparative material from the carrier as well as a computer comparison of the ORP and TRSL retirement plans. This computer comparison will project the value of the ORP at retirement assuming realistic returns based on input variables agreed upon by the employee and the representative from the ORP carrier. The projection of ORP value can then be compared to the retirement value of TRSL for the same employment period.

E. All NASD required disclosures for the various investment vehicles shall be made by the ORP providers.

F. The registered ORP representatives will work within the following marketing guidelines set forth by TRSL.

1. TRSL has authority over ORP marketing effort of the approved companies.

2. Each eligible employer will provide the ORP carriers with the name(s) of an employer contact person(s). In turn, the carriers will provide the employer contacts with the name of their respective ORP representative(s). At least once a semester, each participating institution shall provide the ORP carriers with the names, addresses, and phone numbers of newly eligible employees.

3. Once new employees have received TRSL/benefit orientation by their employer, authorized ORP carrier representatives may contact newly eligible employees through brochure distribution in personnel offices, at employer-sponsored new employee orientation meetings, or through one introductory mailing or telephone call to request an appointment to illustrate and explain both TRSL and ORP benefits. There is otherwise to be no solicitation (including phone calls) on or off campus.

4. No gifts, other monetary awards or gratuities may be paid to any ORP member or any third party because of the ORP enrollment of any person.

5. No products other than TRSL-authorized ORP products may be sold by company representatives to eligible ORP participants, unless the ORP provider has a separate contract with that employer to sell other products, such as 403(b) annuities, life insurance, etc.

6. TRSL must approve all ORP sales literature and explanatory materials before any such materials may be distributed to employees in any way.

7. Each employer will make available to eligible employees the approved ORP information and the names and telephone numbers of the contact representative(s) for each ORP carrier.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:921-929.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 27:738 (May 2001).

James P. Hadley, Jr.
Director

0105#034