

Notices of Intent

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification of School PersonnelC Primary and Secondary Teaching (Focus) Areas for Grades 7-12 Certification (LAC I.903)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This policy is a direct result of the new K-12 certification structure, which provides for greater in-depth content knowledge and instructional expertise across the grade levels. For grades 7-12 certification (secondary), all teachers must have a primary and a secondary focus (or specialty) area.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9 Bulletins, Regulations, and State Plans Subchapter A. Bulletins and Regulations

§903. Teacher Certification Standards and Regulations Bulletin 746

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Primary and Secondary Teaching (Focus) Areas for Grades 7-12 Certification

Within the new certification structure that has been approved by the State Board of Elementary and Secondary Education, every secondary teacher in Louisiana must have a primary and a secondary focus area. The following areas are approved primary focus areas, to include a minimum of 31 semester hours of credit:

Agriculture (Vocational); Business Education; Computer Science; Distributive Education; English; French; Spanish; Latin; German; Family and Consumer Science; Industrial Arts; Mathematics; General Science; Biology; Chemistry; Earth Science; Physics; Environmental Science; Speech; and Social Studies.

The following areas are approved secondary focus areas, to include a minimum of 19 semester hours of credit:

Business Education; Computer Science; Distributive Education; English; French; Spanish; Latin; German; Journalism; Mathematics; Biology; Chemistry; Earth Science; Physics; Environmental Science; Speech; and Social Studies.

Primary and Secondary Teaching (Focus) Areas for Grades 7-12 Certification

Certification Area	Primary 31 Hours	Secondary 19 Hours	Comment
Agriculture - Vocational	✓		
Business Education	✓	✓	
Computer Science	✓	✓	
Distributive Education	✓	✓	
English	✓	✓	
Foreign Languages			
French	✓	✓	
Spanish	✓	✓	
Latin	✓	✓	
German	✓	✓	
Family & Consumer Science	✓		
Industrial Arts	✓		
Journalism		✓	
Mathematics	✓	✓	
Science			If a candidate pursues General Science as a primary teaching area, then the specific science area hours (e.g., Biology, Chemistry, etc.) would also apply to the required secondary focus hours in that specific field.
General Science	✓		
Biology	✓	✓	
Chemistry	✓	✓	
Earth Science	✓	✓	
Physics	✓	✓	
Environmental Science	✓	✓	
Speech	✓	✓	
Social Studies	✓	✓	
NOTE: If a university determines that hours beyond the required hours are needed for a specific primary (31) or secondary (19) teaching area, then the university may use portions of the flexible hours within the 124 total hours to address that need.			

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:183 (April 1975), amended LR 1:310 (July 1975), LR 1:398 (September 1975), LR 1:435 (October 1975), LR 1541 (December 1975), LR 27:825-828 (June 2001), LR 28:

Interested persons may submit comments until 4:30 p.m., January 9, 2002, to Nina Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

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

**RULE TITLE: Bulletin 746C Louisiana Standards
for State Certification of School Personnel Primary
and Secondary Teaching (Focus) Areas for
Grades 7-12 Certification**

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

The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

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

This policy will have no effect on revenue collections.

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

There will be no added costs or economic benefits as a result of this policy revision. This policy is a direct result of the new K-12 certification structure, which provides for greater in-depth content knowledge and instructional expertise across the grade levels. For grades 7-12 certification (secondary), all teachers must have a primary and a secondary focus (or specialty) area.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
0111#076

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

BESE Bulletins and Regulations Removal from
the *Louisiana Administrative Code*

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education approved for advertisement the following revision to Title 28, Education. The revision will remove from the *Louisiana Administrative Code* 185 Bulletins which are non-regulatory, obsolete, or no longer issued.

**List of Bulletins to be Removed from the
*Louisiana Administrative Code***

Bulletin Number	Bulletin Name
746, Part B	Louisiana Standards for State Certification of School Personnel, Vocational-Technical Personnel
1134	Standards and Guidelines for Library Media Programs in Louisiana Schools
1404	National and Regional Accrediting Agencies for Proprietary Schools
1430	Agent/Solicitor - Proprietary Schools
1443	Rules and Regulations - Proprietary Schools
1452	Handbook for Supervisors of Child Welfare and Attendance, Visiting Teachers and School Social Workers
1462	Louisiana School Directory
1472	Annual Financial and Statistical Report
1532	The Early Childhood Special Education Handbook for Louisiana's Early Education Program
1553	Bureau of Veterans' Education and Training

1575	Reference Handbook: Occupational and Physical Therapy in Louisiana Schools
1580	Algebra I
1581	Geometry
1582	Algebra II
1583	Advanced Mathematics
1586	Elementary Classroom Music
1587	Secondary Music Education
1588	Language Arts K-6
1591	Elementary Art Education
1592	Secondary Art Education
1596	Comprehensive Health K-10
1597	Physical Education K-10
1598	Free Enterprise
1599	American History
1600	Civics
1601	Social Studies K-6
1604	American Studies Grade 7
1605	Louisiana Studies Grade 8
1606	Consumer Mathematics
1609	Mathematics K-8
1610	Computer Science
1612	Business Mathematics
1613	Science K-5
1614	Life Science/Ecology Grade 7
1617	Resource Manual for Administrators and Teachers of the Visually Impaired
1619	Louisiana Education Employees Professional Improvement Program
1635	Secondary Health Occupations Guide, 1987 Ed.
1640	Mildly Handicapped
1643	Earth Science Grade 8
1644	Physical Science (HS)
1645	General Science
1646	Biology I
1660	Chemistry I
1661	Secondary Physics
1662	Competency-Based Business Education, Typing/Shorthand/Clerical Practice
1664	Child Development, Vol. 1 and Vol. 2
1674	Vocational Education Curriculum Development General Safety and Health Manual for Technical, Vocational, and Technology Education Programs
1680	Housing
1682	Industrial Arts Curriculum Guide, Grades 6, 7, 8
1683	General Industrial Arts
1684	Basic Woodworking Technology
1685	Basic Metals
1686	Basic Technical Drafting
1686	Supplement to 1686, CADD Module
1687	Industrial Arts Curriculum Project
1690	Basic Program of Vocational Agriculture in Louisiana, Vol. I, Vol. II, and Vol. III
1695	Parenthood Education
1698	Energy Efficient Homes and Small Buildings
1699	Word Processing
1700	Clothing and Textiles
1705	Moderate/Profoun d
1710	Adult Responsibilities
1717	Adapted Physical Education Curriculum Guide
1721	Business English
1722	Elementary Environmental Science Resource Unit
1723	Energy/Power and Transportation
1724	Basic Electricity/Electronics
1725	Advanced Program of Vocational Agriculture in Louisiana, Vol. I, Vol. II, and Vol. III
1727	World Geography
1727	World Geography Map Supplement
1729	Introduction to Business
1734	French as a Second Language Program (grades 4-8) Spanish as a Second Language Program (grades 4-8)
1735	FHA Advisor's Handbook, 1996

1737	Fine Arts Survey
1739	Computer Literacy
1740	Marketing and Distributive Education I, 1985
1750	Advanced Metals
1751	Advanced Technical Drafting
1752	Advanced Woodworking Technology, 1985
1755	Louisiana Slide Video Library Catalog
1758	World History
1759	Western Civilization
1771	Data Processing (in revision)
1775	Child Care
1776	Exploratory Homemaking
1777	Basic Graphic Arts
1778	Advanced Electronics
1779	Architectural Drafting
1780	Acadians of Louisiana
1781	Recordkeeping
1792	Environmental Science
1795	English Language Arts 7-12
1802	Introduction to Algebra
1803	Advanced Electricity -Microprocessors and Robotics
1807	A Resource Guide for Personnel Serving Deaf and Hard of Hearing Students
1810	Consumer Homemaking I
1812	Principles of Technology
1813	Power Mechanics
1814	Business Math
1815	Entrepreneurship for Marketing Education
1816	Publications I & II (Yearbook)
1819	Publications I & II (Newspaper)
1820	Biology II
1821	Home and Family, 1987
1822, Part 1	Competency Based Postsecondary Curriculum Outlines (Diploma Program)
1822, Part 2	Competency Based Postsecondary Curriculum Outlines (Associate Degree Program)
1824	Greenhouse Management
1825	Dynamics of Effective Study
1827	AIDS Education Curriculum Guide
1830	GUMBO: Games Uniting Mind and Body
1832	English Language Arts Curriculum Guide for the Limited English Proficient Students, Grades K-12
1835	Chemistry II
1836	Handbook for Parent Involvement
1837	Handbook for Parent Involvement
1851	Educating the Non/Limited English Proficient Student
1856	Exploration of Construction Technology
1859	Basic Welding
1864	Substance Abuse Prevention Education Curriculum Guides Volume 1: Pre-K - 6 Volume 2: 7 - 12
1866	Competency-Based Administrative Support Occupations
1867	Graduation Exit Examination Annual Report for 1998-99
1869	Writing Measurable IEPs – A Training Package
1870	Determining Eligibility for Extended School Year Programs/Program Standards for Extended School Year Services
1873	Physical Science Grade 6
1876	Modern Foreign Language Curriculum Guide (grades 9-12)
1878	Principles of Technology II
1879	Related Services in the Educational Setting: Guidelines for IEP Committees
1880	Computer Numerical Control (CNC)
1880	Computer Numerical Control Supplement to Bulletin 1880
1882	Administrative Leadership Academy of Louisiana Guidelines
1883	School-Based Therapy: A Parents' Guide
1885	Clean Intermittent Catheterization in the Educational Setting
1887	Needs Assessment for Adult Responsibilities Course
1892	Nutrition Education: Nutrition and Food
1893	Motorcycle Safety, Awareness and Operator Training Program

1894	The Pebble Book (Using the Arts in the Elementary Classroom)
1895	MCOP
1896	Energy Conservation Lab Manual K-8
1897	Cooperative Home Economics Education
1898	Agriscience/Agrimarketing Summer Programs
1900	Integrated Algebra/Geometry
1902	Communication Technology
1906	Keyboarding Applications
1908	Manufacturing Technology
1909	Guidelines for Training: Noncomplex Health Procedures
1910	General Technology Education
1911	Food Science
1912	The Student Outcome Guide: A Resource Manual for Technical Assistance Providers in Programs Serving Students with Severe Disabilities
1914	Elementary Computer Literacy
1915	Business Education Course Outline and Core Competencies
1916	T & I Program and Course Standards
1917	Materials and Processes
1918	Creative Movement-Dance
1919	Communication-Theatre Arts
1920	Early Childhood
1923	Middle School Music
1924	Middle School Visual Arts
1926	Applied Agriscience Activities for Agriscience/Agrimarketing Programs
1927	Preschool Grant Application: Program for Children with Disabilities, ages 3-5
1933	The LA Curriculum System: Process Guide for Developing Inclusive Functional Programs for Students with Severe Disabilities
1936	Louisiana Nutrition Education and Training Program Resource Guide
1938	Church-Based
1942	Junior High Agriscience
1944	Marketing Education: Course Outline and Core Competencies
1945	Business Computer Applications I & II (1994)
1946	Health Occupations: Course Outline and Core Competencies
1947	Minimum Foundation Program Handbook
1948	Secondary Health Occupations Course Outline and Core Competencies (1995)
1949	Family Life Education and Family Economics
1951	Exploratory Business for Middle Schools, 1996
1956	Louisiana Mathematics Teacher Handbook
1957	End-of-Year Narrative Annual Performance Report for Adult Education – 1995-96
1967	Louisiana K-3 Reading and Math Initiative
1970	End-of-Year Narrative Annual Performance Report for Adult Education – 1996-97
1974	Annual Teacher Salary Schedule
1975	Minimum Foundation Program Audit and Evaluation Databook
1976	Annual School Level Expenditures Report, 1996-97
1990	Nursing Assistant
1991	Laboratory Technology
2000	Process Guidelines for Standards for Approval of Teacher Education Program (will replace contents of Bulletin 996)
2015	Regulations for the Tuition Exemption Program for School Support Staff (includes Tuition Exemption Pilot Program for School Support Staff and Tuition Exemption Program for Teacher Aides & Paraprofessionals)
	Louisiana's Handbook for Serving Students with Traumatic Brain Injury
	The General Education Access Guide: A Tool Kit for Program Development
	Grade 7 Exploratory Family and Consumer Sciences Curriculum Guide (Aug. 98)
	Grade 8 Exploratory Family and Consumer Sciences Curriculum Guide (Aug. 98)
	Business Education
	Agriscience

Interested persons may submit comments until 4:30 p.m., January 9, 2002, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: BESE Bulletins and
Regulations Removal from the
Louisiana Administrative Code**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
This action will have no fiscal effect other than \$160 for advertising in the *Louisiana Register*.
BESE is removing from the LAC 185 Bulletins which have been determined to be non-regulatory, obsolete, or no longer issued.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This action will have no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This action will have no effect on cost and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This action will have no effect on competition and employment.

Weegie Peabody
Executive Director
0111#075

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Scholarship/Grant Programs
(LAC 28:IV. 301,503, 507, 701, 705, 803, 903,
907, 1303, 1501, 1503, 1901, 1903, 2103, and 2107)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its Scholarship/Grant rules (R.S. 17:3021-3026, R.S. 3041.10-3041.15, and R.S. 17:3042.1, R.S. 17:3048.1).

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

The proposed rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Interested persons may submit written comments on the proposed changes until 4:30 p.m., December 20, 2001, to Jack L. Guinn, Executive Director, Office of the Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Mark S. Riley
Assistant Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Scholarship/Grant Programs**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No additional costs are anticipated to result from these changes. The revisions and clarifications are consistent with current interpretation and enforcement of the programs.
These rule changes redefine the award amount for TOPS-Tech; redefine the term full-time student; change the TOPS billing procedure for the Louisiana Technical College; make technical and administrative changes to conform other sections of the rules to recent statutory changes and actual administrative practices; change the renewal application procedure for TOPS-Teacher to be consistent with that for other TOPS awards, and to delete Chapter 15 of the program rules dealing with the defunct T. H. Harris Scholarship Program.
Rule changes to Section 301 will have no cost effect. Language in the rules adopted in summer 2000, which related to calculation of the award amount for certain students, was inconsistent with the statutory requirement and related provisions in the rules. The statute requires use of the "weighted average tuition" to calculate award amounts for students enrolled at colleges and universities that are members of the Louisiana Association of Independent Colleges and Universities (LAICU). The rule required using the "average maximum tuition" to calculate award amounts for students with the TOPS Opportunity, Performance, and Honors Award who pursued non-academic training at LAICU institutions. Other related rules provide for the determination of such award amounts by dividing the total dollar value of the awards, which are made to students enrolled in the same types of programs at public colleges and universities, by the total number of students that received the awards. In the 2000-2001 award year, there were no students who were awarded under the rule being revised.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No impact on revenue collections is anticipated to result from these rule changes.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Program administrators, schools and recipients will benefit from clarified and correct rules.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No impact on competition and employment is anticipated to result from this rule.

George Badge Eldredge
General Counsel
0111#038

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

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

The Louisiana Tuition Trust Authority (LATTA) announces its intention to amend rules of the Student Tuition and Revenue Trust (START Savings) Program (R.S. 3091-3099.2). The full text of these proposed rules may be viewed in the emergency rule section of this issue of the *Louisiana Register*.

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

Interested persons may submit written comments on the proposed changes until 4:30 p.m., December 20, 2001, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9201.

Mark S. Riley
Assistant Executive Director

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

**RULE TITLE: Student Tuition and Revenue Trust
(START Saving) Program**

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

The rule revises the definition of eligible educational institution and revises the residency requirement for participation in the START College Savings Program.

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

No impact on revenue collections to the Office of Student Financial Assistance is anticipated to result from the revision.

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

This rule change provides that permanent residents can be considered residents for the purpose of participating in the program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Mark S. Riley
Assistant Executive Director
0111#037

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

State Contribution toward Retirees' Health Premiums

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801.C and 802.B(2) vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, and pursuant to the authority granted by R.S. 42:851.A.(1)(d)(i)(ee), OGB hereby gives Notice of Intent to adopt the following Rule providing with respect to the state contribution toward premiums for participation in OGB Health Plans upon retirement, in accordance with R.S. 42:851.A(1)(d)(i)(aa) through (dd).

A. For any person who is an active employee, as defined by R.S. 42:808 or OGB Rule, and who does not participate in an OGB Health Plan, as defined herein, before January 1, 2002, but subsequently enrolls in an OGB Health Plan, or any person who commences employment with an OGB participant employer on or after January 1, 2002, the state contribution of the premium for participation in an OGB Health Plan upon retirement shall be:

1. nineteen percent for those persons with less than ten years of participation in an OGB health plan before retirement;
2. thirty-eight percent for those persons with 10 years of participation but less than 15 years of participation in an OGB health plan before retirement;
3. fifty-six percent for those persons with 15 years of participation but less than 20 years of participation in an OGB health plan before retirement;
4. seventy-five percent for those persons with 20 or more years of participation in an OGB health plan before retirement.

B. The foregoing schedule will also apply to the state contribution toward premiums for surviving spouse and/or surviving dependent coverage for survivors of employees who retire on or after January 1, 2002 if such spouse and dependents are not enrolled in an OGB health plan before July 1, 2002.

C. This Rule does not affect the contributions paid by the state for:

1. any participant who is a covered retiree before January 1, 2002;
2. any active employee who is enrolled in an OGB Health Plan before January 1, 2002 and maintains continuous coverage through retirement;

3. surviving spouse and/or surviving dependent coverage for survivors of employees who retire on or after January 1, 2002 if such spouse and dependents are enrolled in an OGB health plan before July 1, 2002 and continuous coverage is maintained until the employee's death.

D. The term "OGB Health Plan" as used herein includes all health plans offered as primary health care plans to employees of OGB participating employers, for which the state contributes a share of the premium, including self-insured plans such as the PPO and the EPO, and fully insured HMO plans offered as alternative options.

E. For the purpose of determining the percentage of the state contribution toward premiums in accordance with this Rule, the number of years of participation in OGB Health Plans must be certified by the participating employer from which the employee retires on a form provided by OGB.

1. Such certification must be based upon business records maintained by the participating employer or provided by the employee.

2. Business records upon which certification is based must be available to OGB, the Division of Administration, and to the Legislative Auditor.

3. Not more than 120 days prior an employee's scheduled date of retirement, OGB will provide to the participating employer, upon request, all information in its possession relating to an employee's participation.

4. At the time of application for surviving spouse and/or surviving dependent coverage, OGB will provide, upon request, all information in its possession relating to participation of such surviving spouse and/or surviving dependent.

Interested persons may present their views, in writing, to A. Kip Wall, Chief Executive Officer, Office of Group Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 on Friday, December 28, 2001.

A. Kip Wall
Chief Executive Officer

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

**RULE TITLE: State Contribution toward Retirees'
Health Premiums**

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

It is estimated by OGB's consulting actuary, Arthur Andersen, that this benefits modification will reduce the state's share of the premium for employees that have not joined the program prior to January 1, 2002, while the retirees' share will rise by a comparable amount. The net effect of this change should not be material, in the short term; however, the state should begin to realize savings in retiree contributions within 10-20 years.

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

Revenue collections of state and local governmental units will not be affected.

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

This rule change will require that any person that is not covered prior to January 1, 2002, and subsequently retires, to have the level of state funding to be based on the years they

were covered in the plan prior to retirement. For those employees that were covered for 0-10 years, the state participation will be 19 percent of total premium; for 15-20 years of coverage, the state participation will be 56 percent of total premium; and for coverage over 20 years, the state participation will be 75 percent of total premium.

All retirees currently covered and those active employees that are covered prior to January 1, 2002 will receive a 75 percent state participation under "grandfathering" provisions of this rule.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

Competition and employment will not be affected.

A. Kip Wall
Chief Executive Officer
0111#028

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Property Assistance Agency**

Items of Property to be Inventoried (LAC 34:VII.307)

In accordance with the R.S. 49:950 et seq., the Division of Administration, Louisiana Property Assistance Agency, hereby gives notice of its intent to amend LAC 34:VII.307. The Items of Property to be Inventoried rules will have no known impact on family formation, stability, and autonomy as set forth in R.S. 39:321.

Title 34

**GOVERNMENT CONTRACTS, PROCUREMENT
AND PROPERTY CONTROL**

Part VII. Property Control

Chapter 3. State Property Inventory

§307. Items of Property to be Inventoried

A. All items of moveable property having an "original" acquisition cost, when first purchased by the state of Louisiana, of \$1000 or more, all gifts and other property having a fair market value of \$1000 or more, and all weapons, regardless of cost, with the exception of items specifically excluded in §307.E, must be placed on the statewide inventory system. The term "moveable" distinguishes this type of equipment from equipment attached as a permanent part of a building or structure. The term "property" distinguishes this type of equipment from "supplies" with supplies being consumable through normal use in no more than one year's time. All acquisitions of qualified items must be tagged with a uniform state of Louisiana identification tag approved by the commissioner of administration and all pertinent inventory information must be forwarded to the Louisiana Property Assistance Agency director or his designee within 60 days after receipt of these items.

B - G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39.321 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Property Control, LR 2.228 (August 1976), amended 8:277 (June 1982), amended by the Office of the Governor, Division of Administration, Louisiana Property Assistance Agency, LR 15:832 (October 1989), LR 18:1256 (November 1992), LR 28:

Interested persons may submit written comments on the proposed revision to Irene Babin, Director, Louisiana Property Assistance Agency, P.O. Box 94095, Baton Rouge, LA 70804-9095. Written comments will be received until 5 p.m. December 20, 2001.

Irene C. Babin
Director

director, or C.A. Rieger, assistant director, at (504) 483-4000 (FAX 483-4898), holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this proposed rule through December 10, 2001, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Items of Property to be Inventoried**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be no implementation cost to any state or local governmental unit.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of any state or local governmental unit.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no cost and/or economic benefit to any directly affected persons or nongovernmental group.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Irene Babin
Director
0110#008

H. Gordon Monk
Staff Director
Legislative Fiscal Office

**NOTICE OF INTENT
Office of the Governor
Division of Administration
Racing Commission**

Claiming Rule (LAC 45:XI.9915 and 9939)

The Louisiana State Racing Commission hereby gives notice that it intends to amend LAC 35:XI.9915 "Number of Horses Claimed Per Race" and LAC 35:XI.9939 "Number of Claims on Stable or Trainer" because it is no longer desirable nor necessary to limit one claim per claiming race; it is more beneficial to all parties to increase that limit to two. This is consistent with other racing jurisdictions.

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

The text of this Notice of Intent may be viewed in its entirety in the Emergency Rule section of this issue of the *Louisiana Register*.

The domicile office of the Louisiana State Racing Commission is open from 8:30 a.m. to 5 p.m. and interested parties may contact Charles A. Gardiner III, executive

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Claiming Rule**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There are no anticipated costs or savings to state or local governmental units associated with these rules, other than those one-time costs directly associated with the publication of these rules.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is estimated to be a minimal positive effect on revenue collections of state and local governmental units associated with this proposed rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This action benefits horse owners by allowing them to claim up to two horses per race instead of only one.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment as a result of the proposed rule.

Charles A. Gardiner, III
Executive Director
0111#005

H. Gordon Monk
Staff Director
Legislative Fiscal Office

**NOTICE OF INTENT
Office of the Governor
Division of Administration
Racing Commission**

Net Slot Machine Proceeds (LAC 35:III.5737)

Editor's Note: The original text in Section 5737 ("Commission Office") was moved to Section 5738 to allow slot machine subject matter to be consecutive. This information is being repromulgated in Section 5738 with no changes for informative purposes only.

The Louisiana State Racing Commission hereby gives notice that it intends to adopt LAC 35:III.5737 "Net Slot Machine Proceeds," because the commission finds it necessary to expand on the statutes involving slot machines housed at racing associations, specifically R.S. 27:353, R.S. 27:354 and R.S. 27:361, and specify certain provisions thereof.

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

**Title 35
HORSE RACING**

**Part III. Personnel, Registration, and Licensing
Chapter 57. Associations' Duties and Obligations**

§5737. Net Slot Machine Proceeds

A. The commission, pursuant to R.S. 27:354, finds that it is in the best interests of licensed associations, breeders associations, horsemen, and the state that the annual payments provided for in R.S. 27:361 be paid in monthly installments.

B. The definitions set forth in R.S. 27:353 are incorporated herein by reference.

C. Not later than the date on which an association installs slot machines at its facility, it shall open three separate checking accounts as provided for herein. One account shall be a control bank account into which not less than 100 percent of the net slot machine proceeds for the activity month shall be deposited in sufficient time to be distributed or disbursed not later than the 20th day of the following month as required by these rules. The association shall also open two distinct interest bearing accounts, one for thoroughbred purse proceeds and one for quarter horse purse proceeds, into which the association shall make its deposits for purse supplements of 5 percent of net slot machine proceeds and from which funds, including interest earned, such purse supplements shall be made available as provided by law and these rules.

D. While an association is conducting live racing, the monies due to be paid pursuant to R.S. 27:361(B)(4)(a) shall be made available monthly for use as purses prior to the 20th day of the month following the month in which they are earned, during the current race meeting.

E. While an association is not conducting live racing, the monies due to be paid pursuant to R.S. 27:361(B)(4)(a) shall be deposited in the appropriate breed account either:

1. for accrual until the first day of the next live race meeting conducted by that association for that breed at which time such accumulated monies, including interest, shall be used to supplement appropriate purses during that race meeting; or

2. with prior written agreement of the Louisiana HBPA for reimbursement to the association for actual funds advanced to supplement purses at a preceding race meeting in anticipation of the revenue to be earned from slot machines. However, an association shall not be reimbursed except from proceeds earned during the same annual period during which it advanced the purse supplements.

F. The monies due to be paid by an association pursuant to R.S. 27:361(B)(4)(b) and (c) shall be remitted monthly to the appropriate breeders association and the monies due to be paid by an association pursuant to R.S. 27:361(B)(4)(a)(i) and (ii) shall be remitted monthly to the HBPA, prior to the 20th day of the month following the month in which they are earned.

G. Each racing association conducting slot machine gaming shall file with the commission a complete report, on a form acceptable to the commission, not later than the 20th day of each month, setting forth the amounts deposited and payments made from the net slot machine proceeds earned

the preceding month, as well as payments for purses and payments to breeders associations and to the HBPA. Copies of those bank accounts required to be maintained by Subsection C of this section shall be submitted to the commission along with the monthly report.

H. Each racing association, after conducting slot machine gaming for 12 months, shall file an annual report with the commission, on forms acceptable to the commission, not later than the 20th day of the following month, and on that date each following year, which report shall certify under oath by a responsible officer the association's compliance with all requirements under R.S. 27:361(B)(4) and under this rule. Each such 12-month period shall constitute an annual period for the purposes of this rule.

I. All records and reports pertaining to slot machines, including checking accounts, maintained by an association shall be subject to inspection, reporting procedures and audits by the commission. All records and reports on revenues and expenses from slot machines shall be included as part of the association's annual CPA opinion audit submitted to the commission.

J. Before receiving any payments provided by R.S. 27:361(B)(4)(b) or (c), the respective Executive Committee of the Louisiana Thoroughbred Breeders Association and Executive Committee of the Louisiana Quarter Horse Breeders Association shall file with the commission the schedule or formula and within a time period which it has established for the distribution of such funds. Any amendments or modifications to such distribution schedule or formula shall be filed with the commission within 30 days of its adoption by the Executive Committee. A true and complete copy of each such filing with the commission shall be delivered to each racing association and the filing shall so certify delivery. Each Executive Committee shall also file a monthly report with the commission of revenue received, payments made, and the bank balance on hand along with a copy of the bank statement.

K. After the expiration of one year from the filing of its first distribution schedule or formula with the commission but within 20 days thereafter, and on that date each following year, the respective Executive Committee of the Louisiana Thoroughbred Breeders Association and Executive Committee of the Louisiana Quarter Horse Breeders Association shall file with the commission a report which shall certify under oath by a responsible officer the association's compliance with its applicable distribution schedule or formula and within a time period which it has established for the distribution of such funds.

L. An association shall publicly disclose its schedule for the distribution of funds for purse supplements to be made pursuant to R.S. 27:361(B)(4)(a). Excluding those funds statutorily dedicated to races restricted to accredited Louisiana-breds, the remaining funds shall be distributed proportionately according to the conditions of the races in which the remaining funds are used to insure parity among restricted and non-restricted races.

M. Whenever it appears to the executive director of the commission that a violation may have occurred, he shall furnish the apparent violator with a warning letter, sent by ordinary mail and by fax, affording the party 15 days from

the date of the transmission of the letter to correct the violation.

N. If the apparent violation has not been timely corrected, the executive director, or his designee, shall within 10 days give written notice, by certified mail, to the party that its responsible officers are to appear before him for an informal conference to determine whether a violation has occurred and, if so, whether the violation can be corrected in the absence of imposing a fine or indefinitely suspending the license of the party, or refusing to allow the party to receive payments under this rule. Such informal hearing shall be conducted in accordance with the Administrative Procedures Act applicable to such hearing.

O. If the executive director, or his designee, determines after affording the party an opportunity for an informal conference that a violation has occurred and that a fine, license suspension, or other appropriate action should be taken, he shall file a *rule to show cause* with the commission for the notified party and its responsible officers to appear before the commission and show cause why disciplinary action or sanctions should not be imposed. The *rule to show cause* shall be forwarded by certified mail and by fax to the party. The cited party shall have 10 days from transmission, excluding holidays and weekends, to file with the commission a written response, under oath, and to submit a list of the names and addresses of all witnesses it desires to be subpoenaed for the hearing, including those to produce documents and other things. The failure to timely file a verified response may, in the commission's discretion, result in the cited party being refused to participate in the hearing on the *rule to show cause*.

P. At the conclusion of the hearing, the commission shall take action appropriate to the violation if it finds that one has occurred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:353, R.S. 27:354 and R.S. 27:361.

HISTORICAL NOTE: Promulgated by the Division of Administration, Racing Commission LR 28:

§5738. Commission Office

A. Each association shall provide and furnish an adequate office for the use of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:435 (December 1976), LR 3:31 (January 1977), LR 4:278 (August 1978), repromulgated LR 28:

The domicile office of the Louisiana State Racing Commission is open from 8:30 a.m. to 5 p.m., and interested parties may contact Charles A. Gardiner III, executive director, or C. A. Rieger, assistant director, at (504) 483-4000 (holidays and weekends excluded), or by fax (504) 483-4898, for more information. All interested persons may submit written comments relative to this proposed rule through December 10, 2001, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, Louisiana 70119-5100.

Charles A. Gardiner III
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Net Slot Machine Proceeds

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

There are no anticipated costs or savings to state or local governmental units associated with these rules, other than those one-time costs directly associated with the publication of these rules.

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

There is estimated to be no effect on revenue collections of local governmental units associated with this proposed rule.

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

This action benefits racing associations and breeder associations by stipulating distribution of proceeds already provided for in R.S. 27:354 and 361, and penalties for violations thereof.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of the proposed rule.

Charles A. Gardiner III
Executive Director
0111#004

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Office of Financial Institutions

Loan Brokers (LAC 10:XV.Chapter 15)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Office of Financial Institutions hereby proposes to promulgate regulations to require that any person located within this state that solicits a loan for a Louisiana consumer from a third party for or in expectation of compensation shall obtain a license as a loan broker and must comply with the provisions of the Louisiana Loan Brokers Act, ("LLBA"), R.S. 9:3572.1, et seq., the Louisiana Consumer Credit Law, ("LCCL"), R.S. 9:3510, et seq., and the Louisiana Deferred Presentment and Small Loan Act, ("LDPSLA"), R.S. 9:3578.1.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES, AND UCC

Part XV. Other Regulated Entities

Chapter 15. Licensure

§1501. Definitions

Licensee—A person licensed by the commissioner under the provisions of the:

1. Louisiana Check Cashers Act—R.S. 6:1001 et seq.;
2. Louisiana Sale of Checks and Money Transmission Act—R.S. 6:1031 et seq.;
3. Louisiana Consumer Credit Law—R.S. 9:3510 et seq.;

4. Louisiana Credit Repair Services Organizations Act CR.S. 9:3573.1 et seq.;

5. Louisiana Collection Agency Regulation Act CR.S. 9:3576.1 et seq.;

6. Louisiana Deferred Presentment and Small Loan Act CR.S. 9:3578.1 et seq.; and

7. Louisiana Pawnshop Act CR.S. 37:1781 et seq.

Loan Ca loan to a Louisiana consumer for personal, family, or household purposes.

Loan Broker Ca person who, for compensation or the expectation of compensation regardless of its source, obtains or offers to obtain a loan from a third party wherever domiciled, if the broker is operating in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 28:

§1503. Licensure of Loan Brokers

A. No person having an office in Louisiana shall broker a loan in Louisiana unless exempt by statute, without first being licensed and complying with the provisions of the Louisiana Loan Brokers Act

B. Any licensee who performs loan brokerage activity or who enters into a loan brokerage agreement in Louisiana without first being licensed and complying with the provisions of the LLBA may be subject to having any other Louisiana license they hold suspended or revoked by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 28:

§1505. Prohibition

A. A person licensed or exempt from licensure as a loan broker, is prohibited from brokering a loan to a Louisiana consumer which does not comply with the LCCL or LDPSLA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 28:

§1507. Civil Money Penalties

A. Any person or licensee who is found to be in violation of this regulation may be subject to any and all of the administrative and enforcement proceedings provided by R.S. 9:3554.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 28:

§1509. Administrative Procedure

A. The Louisiana Administrative Procedure Act, R.S. 49:950 et seq., shall govern all proceedings instituted under the coverage of the rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 28:

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

The proposed rule will have no adverse fiscal or economic impact, nor will it adversely impact family formation, stability, and autonomy.

Any interested party may submit written comments on the proposed rule to Gary L. Newport, General Counsel, Louisiana Office of Financial Institutions, at P.O. Box 94095, Baton Rouge, LA 70809, or may deliver comments to 8660 United Plaza Boulevard, Baton Rouge, Louisiana, until 4:30 p.m., December 20, 2001.

John D. Travis
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Loan Brokers

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

The proposed rule will not result in any additional costs to the state of Louisiana. The purpose of the rule is to ensure that no person engages in brokering consumer loans in Louisiana without first complying with the licensing provisions of the Louisiana Loan Brokers Act. The rule also requires that consumer loans brokered by licensed or exempt persons comply with either the Louisiana Consumer Credit Law or the Louisiana Deferred Presentment Small Loan Act.

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

The proposed rule will result in an estimated increase in revenue to the state of Louisiana of \$8,900 annually as a result in the increase in the number of persons required to be licensed under the Louisiana Loan Brokers Act. There will be no impact on any other governmental units.

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

The proposed rule shall only affect persons licensed or exempt pursuant to the Louisiana Loan Brokers Act. Currently approximately 3 additional companies with 74 employees will be required to be licensed in Louisiana as a result of the proposed rule. Total costs to each company will be a \$500 annual company licensing fee and a \$100 annual licensing fee for each employee engaging in brokering consumer loans.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment within the affected industry as a result of the proposed rule.

Gary L. Newport
General Counsel
0111#079

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Office of Women's Services

Microenterprise Development Program
(LAC 4:VII.1741 and 1743)

In Accordance with the Administrative Procedure Act, R.S. 49:953(B), the executive director of the Governor's Office of Women's Services (OWS) is proposing to adopt the following rule for the implementation of the Microenterprise Development Program to further the goals of and the

intentions of the federal Temporary Assistance to Needy Families Block Grant funds. This proposed rule facilitates expenditures of Temporary Assistance to Needy Families (TANF) funds as authorized by ACT 12 of the 2001 Regular Session of the Louisiana Legislature for the support of microenterprise development, in accordance with federal and state regulations (45 CFR Part 260 et seq. and LAC 67:III.Subpart 15).

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

Interested persons may contact Carolyn Carter at P.O. Box 94095, Baton Rouge, LA 70804-9095 through the close of business on December 21, 2001.

Vera Clay
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Microenterprise Development Program

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

The total cost to State government is \$1,000,000 in FY 01-02 as a result of the TANF (Temporary Assistance for Needy Families) funding received from DSS for Microenterprise development. This funding is anticipated to be available only for FY 01-02.

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

There will be no effect on state and local governmental revenue collections.

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

The goal is to enable 75 micro enterprise start-ups and 75 expansions statewide. A 1999 Aspen Institute study of microenterprise found the 72% of these individuals increased household income by \$8,484 over a five year period, for an average of \$1,696.80. The average reduction in AFDC benefits declined by \$1,679 per year during the study period.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effect on competition is not measurable. However, the effect on employment is expected to be the creation of 1.5 jobs for each Microenterprise created.

Vera Clay
Executive Director
0111#001

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Examiners for Speech-Language Pathology and Audiology

Speech-Language Pathology and Audiology
(LAC 46:LXXXV.109, 113, 115,
117, 119, 123, 125, and 507)

The Louisiana Board of Examiners for Speech-Language Pathology and Audiology proposes to amend the following rules as authorized by R.S. 37:2656(1)(c) to clarify the rules

amended on February 20, 2001, and to correct codification errors that occurred in the course of promulgation.

The following amendments address codification errors in the sections of the Board's Rules, Regulations, and Procedures that pertain to: Requirement to Upgrade Licenses, License Renewals, Continuing Education Requirements, Application Procedures, Supervision Requirements for Restricted License, Provisional Speech-Language Pathology License and Provisional Audiology License, Hearing Aid Dispensing, Disciplinary Action, and General Procedural Rules for Disciplinary Hearings.

§109. Requirements to Upgrade License

A. The Provisional Speech-Language Pathology or Provisional Audiology licensee who has not passed the examination at the time of initial licensure shall submit the following to upgrade his/her license status:

1. an official copy of a passing score on the Educational Testing Service area examination;
2. verification of nine months of full-time post-graduate professional employment/experience or its part-time equivalent in the field the license is held;
3. proof of supervision through date of upgrade (Form 100);
4. upgrade fee of \$25.

B. The Provisional Speech-Language Pathology or Provisional Audiology licensee who has not completed the nine months of postgraduate professional employment/experience at the time of initial licensure shall submit the following to upgrade his/her license status:

1. verification of nine months of full-time post-graduate professional employment/experience or its part-time equivalent in the field the license is held;
2. proof of supervision through date of upgrade (Form 100);
3. upgrade fee of \$25.

C. The Provisional Speech-Language Pathology Assistant shall submit the following to upgrade his/her license status:

1. proof of 225 supervised clinical practicum hours shall be on file in the board's office;
2. upgrade fee of \$25.

D. The Restricted Speech-Language Pathology or Restricted Audiology licensee who holds a master's degree or its equivalent in Speech-Language Pathology or Audiology shall submit the following documents to upgrade their license:

1. an official copy of a passing score on the Educational Testing Service area examination;
2. verification of nine months of post-graduate professional employment/experience or its part-time equivalent in the field in which the license is held;
3. proof of supervision through date of upgrade (Form 100);
4. upgrade fee of \$25.

E. Restricted Speech-Language Pathology licensees who hold a bachelor's degree who wish to change their status to a Provisional Speech-Language Pathology License shall submit an application for license and meet the requirements of R.S. 37:2659.B.

F. Speech-Language Pathology Assistant licensees who wish to change their status to a Provisional Speech-

Language Pathology License shall submit an application for license and meet the requirements of R.S. 37:2759.B.

G Postgraduate professional employment/experience which counts toward upgrading the license status will only be accepted from the date that the licensee's application was acknowledged to have been received by the board.

H. Audiologists who hold an audiology license but are completing the coursework or practicum requirements for registration as a dispenser shall follow the supervision requirements as specified in §123, and shall submit the board's Form 100 at the time of renewal. The board's Form 100 and the upgrade fee shall be submitted to upgrade license status.

I. It is the responsibility of the licensee to submit the documents and make a written request for upgrade of his/her license status. Licensees shall complete all supervision requirements consistent with the license held and immediately thereafter submit appropriate supervision forms to the board office along with a written request for license upgrade and the upgrade fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, L.R. 22:329 (May 1996), amended LR 27:197 (February 2001), LR 28:

§113. License Renewals

A. All licenses shall be renewed annually by June 30, to avoid delinquent renewal fees.

B. Initial licenses issued during the last quarter of the fiscal year, i.e., April, May, and June, will not be required to be renewed during that fiscal year. No continuing education hours will be required of the licensee for that period.

C. Licensees shall list on their renewal form the licensees and aides that they are supervising, i.e., provisional speech-language pathologists, provisional audiologists, restricted speech-language pathologists, restricted audiologists, speech-language pathology assistants, or provisional speech-language pathology assistants.

D. It is the licensee's continuing obligation to keep the board informed of his/her current mailing address.

E. Licensees shall participate in continuing professional education activities of at least 10 clock hours for each license period, July 1 through June 30, in accordance with §115.

F. Retired status is granted to speech-language pathologists and audiologists who are retired and do not practice speech-language pathology or audiology during the fiscal year, July 1 through June 30.

1. These licensees shall complete the affidavit on the continuing education report and submit it at the time of licensure renewal.

2. Retired licensees may retain their license by payment of the annual renewal fee. In order to resume the practice of speech-language pathology or audiology, retired licensees shall demonstrate completion of five clock hours of continuing education in the area of licensure for each year that retired status was maintained.

3. The licensee may submit the required five hours of continuing education each year he/she is retired or submit all of the hours the year he/she returns to work in the profession.

G Licensees who hold a license requiring supervision and who are not working in the field of speech-language pathology and/or audiology shall submit a notarized statement at the time of license renewal attesting to the fact that they did not work in the profession during the license period.

H. Delinquent Renewal

1. Delinquent requests for renewals will be accepted by the board through October 31, provided the Delinquent Renewal Fee is paid in accordance with §111.C and D, and the continuing education summary form is submitted.

2. A licensee whose license lapsed on November 1, and applies to reinstate prior to the following June 30, is required to submit a completed application, proof of continuing education, initial license fee and delinquent renewal fee in accordance with §111.A and D, and §115.

3. A licensee whose license lapsed on November 1, and applies for reinstatement after June 30, of the following year, is subject to the initial license fee and the requirements of §113.I.3.

I. Conditional Renewal

1. Licensees who previously held a full, valid license which was obtained under the grandfather clause of Act 260 of the 1978 Regular Session of the Louisiana Legislature, whether delinquent or lapsed, for a period not to exceed five years, shall be eligible for licensure renewal or reinstatement upon meeting the continuing education requirement and submitting the appropriate renewal fee in accordance with §111. If the license has lapsed for a period of more than five years, applicants shall reapply in accordance with the requirements enumerated in R.S. 37:2651 et seq., as amended by Act 892 of the 1995 Regular Session of the Louisiana Legislature.

2. Licensees who previously held a restricted license which was obtained under Act 260 of the 1978 Regular Session of the Louisiana Legislature, whether delinquent or lapsed, shall be eligible for licensure renewal or reinstatement, upon meeting the continuing education requirement and submitting the appropriate renewal fee as required in accordance with §111 and §115.

3. Licensees who allow their license to lapse (November 1) shall submit documentation of completion of 5 clock hours of continuing education in the area of licensure for each year that the license has lapsed in addition to meeting the license requirements enumerated in R.S. 37:2650 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, L.R.14:707 (October 1988), amended LR 22:351 (May 1996), LR 27:198 (February 2001), LR 28:

§115. Continuing Education Requirements

A. Each licensee shall complete continuing professional education activities of at least 10 clock hours each license period, July 1 through June 30.

B. Of the 10 hours, five shall be in the area of licensure, and five may be in areas related to the professions of audiology and speech-language pathology.

C. Audiologists who register as dispensing audiologists shall insure that at least three of the total 10 hours are in areas directly related to hearing aid dispensing, such as

business/practice management, marketing, aural habilitation/rehabilitation, diagnostic assessment, characteristics of hearing aids and their application, etc.

D. Dual licensees shall complete 15 hours per year with a minimum of five hours in speech-language pathology and five hours in audiology; the remaining five may be in areas related to the professions of audiology and speech-language pathology.

E. Continuing Education events occurring in the month of June, will be accepted for the collection period in which they occur or they may be counted in the following collection period which begins on July 1. Hours from one event may not be divided between two collection periods.

F. In the case of extenuating circumstances, when the licensee does not fulfill the continuing education requirements, the licensee shall submit a written request for extension to the board for consideration.

G. Continuing Education hours accrued during the applicant's grace period will be accepted.

H. The graduated scale for the collection of Continuing Education hours is based on the date an applicant receives his/her initial license.

License Received	Hours Required
April, May, June	0
January, February, March	3
October, November, December	6
July, August, September	10

I. Acceptable Continuing Education Sponsors and Activities

1. board-sponsored activities (maximum of 10 hours);
2. workshops in the area of communication disorders sponsored by individual professional practitioners and/or professional organizations such as American Audiological Association, American Speech-Language-Hearing Association, Louisiana Speech-Language-Hearing Association, Speech Pathologists and Audiologists in Louisiana Schools, Louisiana Society for Hearing Aid Specialists, etc. (maximum of 10 hours);
3. meetings of related professional organizations (maximum of five hours);
4. college courses in the area of licensure taken for credit or official audit (three semester hours or six quarter hours = 10 hours of continuing education);
5. distance learning (video conferences, telephone seminars and Internet courses sponsored by universities, schools, clinics, state agencies, hospitals, or related professional organizations) (maximum of five hours);
6. workshops and in-services that are university, school, clinic, hospital or state agency sponsored (maximum of five hours in a related area, maximum of 10 hours if in the area of licensure);
7. publication of articles in a refereed journal for the year in which they are published (five hours);
8. scientific or educational lectures to include presentations such as poster sessions given by the licensee (maximum of five hours);
9. the presenting licensee may count 1 1/2 times the value of a workshop the first time it is presented to allow for preparation time (Example: a three hour workshop = 4 1/2 hours.) The workshop will count for the actual hour value for each subsequent presentation of the same workshop;

10. teaching at the college level in the area of communication disorders is not acceptable.

J. Pre-Approval Policy

1. Pre-approval is required for continuing education events that do not meet the requirements as listed under §115.I.1-10, and pre-approval of continuing education events is required in those situations where it is unclear whether or not the topic is relevant to the profession or will further a professional's expertise in a particular area.

2. The licensee shall request pre-approval (minimum of 60 days in advance) of self-study activities, or other appropriate activities.

3. Licensees who elect to attend university classes/courses in speech-language pathology and/or audiology without payment of the university fee shall submit a self-study plan for pre-approval from the Louisiana Board of Examiners for Speech-Language Pathology and Audiology to receive continuing education credits.

4. Self-study activities in the area of communication disorders:

- a. audio or video tapes (maximum of five hours);
- b. reading of journal articles that contain self-examination questions at the end. Articles shall be submitted for pre-approval (maximum of five hours).

5. Publication of diagnostic and/or therapeutic materials (maximum of five hours).

K. Recording of Continuing Education Activities

1. Licensees shall record all continuing education activities on a tracking sheet provided by the board. The tracking sheet will be included with renewal notices and will cover the period of July 1 through June 30.

2. The board may request, through random audit, verification of clock hours submitted, including information regarding content and attendance. Approximately 10 percent will be audited each year as a means of evaluating compliance with the continuing education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, L.R.22:351 (May 1996), amended LR 27:199 (February 2001), LR 28:

§117. Application Procedures

A. An application for a license to practice speech-language pathology and/or audiology in Louisiana shall be made on forms supplied by the board.

B. Official transcripts shall be sent to this board directly from the college or university from which the academic requirements were earned.

C. Documentation of supervised clinical practicum hours shall be submitted on university forms and signed by a clinical supervisor or director.

D. The initial license fee submitted to this board shall be paid by certified check, cashier's check or money order. Only renewal fees may be paid by personal check.

E. Speech-language pathologists, assistants and/or audiologists who have held a license in another state, shall provide official verification of their licensure status in each state.

F. Documentation of nine months of postgraduate professional employment/experience shall be submitted directly to the board in writing on official agency letterhead.

G Documentation of nine months of postgraduate professional employment/experience, a passing score on NTE, and verification of supervised clinical practicum hours may be waived for individuals who submit verification that they hold the Certificate of Clinical Competence from the American Speech-Hearing-Language Association.

H. Postgraduate professional employment/experience which counts toward upgrading the license status, will only be accepted from the date that a licensee's application is acknowledged to have been received by the board.

I. While an application for a license is being considered by the board, the applicant may be employed as a speech-language pathologist, audiologist or speech-language pathology assistant for a period not longer than 60 days from the date that their application is acknowledged to have been received by the board. In no event may the applicant be employed as a speech-language pathologist, audiologist or speech-language pathology assistant after the application has been denied.

J. An applicant may be granted only one 60-day period to work while his/her initial application is being processed. No additional grace period may be granted to an applicant.

K. When there is probable cause to believe that an applicant practiced illegally in Louisiana as a speech-language pathologist, speech-language pathology assistant and/or audiologist, the board may offer a consent agreement and order which will grant the individual a license, subject to the following specified terms and conditions.

1. Within 90 days of the date of the consent agreement and order, the applicant shall take and pass an open book examination regarding R.S. 37:2650-2666, the board's Rules, Regulations and Procedures, and Ethical Questions or within 10 months of the date of the consent agreement and order, the applicant shall complete not fewer than five hours of continuing education in the area of ethics.

a. Open book test fee shall be \$30. The retest fee shall be \$10 per section.

b. Applicants have 4 1/2 hours to complete all sections of the test.

c. The open book examination or any section may be re-taken anytime within the 90 days.

d. The applicant may be required to appear before the board following completion of the continuing education in ethics to answer questions regarding the continuing education.

e. The consent order and agreement shall be published in the LBESPA newsletter.

f. If the applicant fails to successfully complete all requirements set forth in the above paragraphs within 90 days, the applicant's license shall be suspended without further notice until the board receives and accepts documentation of the applicant's completion of the consent order and agreement requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 22:352 (May 1996), amended LR 27:199 (February 2001), LR 28:

§119. Supervision Requirements for Restricted License, Provisional Speech-Language Pathology License and Provisional Audiology License

A. Restricted Licensees, Provisional Speech-Language Pathology Licensees and Provisional Audiology Licensees are required to undergo direct supervision by a licensed speech-language pathologist or audiologist, licensed in the area in accordance with R.S. 37:2659.A. An individual may not be supervised by a provisional licensee, restricted licensee, or assistant licensee.

B. Speech-Language Pathologists or Audiologists may share the supervision responsibility for Provisional or Restricted licensees, but each supervising speech-language pathologist or audiologist shall complete and submit the necessary supervision forms.

C. The direct supervision of the licensee, whether employed full-time or part-time, shall include 12 monitoring activities annually.

1. At least four shall be on-site, in-view observations divided between the areas of diagnostics and management. Alternative methods may include conferences, audio and videotape recordings, review of written records, staffings and discussions with other persons who have participated in the licensee's training.

2. For twelve-month employees, one on-site, in-view observation shall be conducted each quarter.

3. For nine-month employees, two on-site, in-view observations shall occur in each semester.

D. Documentation of supervision shall be submitted annually at the time of license renewal on Form 100 provided by the board.

E. Licensees shall complete all supervision requirements consistent with the license held and immediately thereafter submit appropriate supervision forms to the board office along with a written request for license upgrade and the upgrade fee.

F. Licensees who are not working in the field of speech-language pathology and/or audiology and who hold a license requiring supervision, shall submit a notarized statement at the time of license renewal attesting to the fact that they did not work in the profession during the license period.

G. All costs of supervision shall be borne by the licensee or his/her employer, but in no event will those costs be borne by the board.

H. When supervision requirements have not been met in accordance with §119.C.1 and 2., licensees shall complete additional months of supervision to replace months of incomplete supervision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:352 (May 1996), LR 27:199 (February 2001), LR 28:

§123. Hearing Aid Dispensing

A. Audiologists who dispense hearing aids shall meet the coursework and practicum requirements for dispensing as specified in R.S. 37:2650, et seq., and shall register their intent to do so at the time of each license renewal.

1. Dispensing audiologists shall pay an initial registration fee of \$25 and an annual renewal fee of \$10 in addition to the fees charged for licensure renewal.

2. Dispensing audiologists shall affix an annual registration seal to the displayed audiology license.

B. Audiologists who hold a Provisional Audiology License shall be supervised by a licensed, registered dispensing audiologist while completing the postgraduate professional employment/experience requirements for full licensure.

C. Audiologists who hold an audiology license but are completing the coursework or practicum requirements for registration as a dispenser shall follow the supervision requirements as specified in §119 and shall submit the board's Form 100 at the time of renewal. The board's Form 100 shall be submitted to upgrade the license status.

D. Audiologists who dispense hearing aids shall maintain annual calibration records on audiometric equipment.

E. Audiologists who dispense hearing aids shall meet the minimum continuing education requirements for license renewal with at least three of the required 10 hours in areas specifically related to hearing aids and/or the dispensing of hearing aids.

F. Audiologists who dispense hearing aids shall comply with the following guidelines.

1. Audiologists shall conduct a pre-purchase evaluation that includes:

- a. a case history;
- b. an otoscopic examination;
- c. a basic audiological test battery, including:
 - i. pure tone air and bone conduction testing;
 - ii. speech reception threshold;
 - iii. word recognition testing;
 - iv. appropriate tolerance testing;
 - v. middle ear measurements when indicated.

2. Audiologists shall provide the consumer with a minimum 30-day trial period on all new hearing aids purchased.

3. Audiologists shall inform the consumer of the total cost of the hearing aid, including any fees for returning the aid at the end of the trial period.

4. Audiologists shall conduct a post-fitting evaluation that includes functional gain measurements and/or real ear measurements unless the patient's physical conditions prohibit accomplishment of these procedures.

5. Audiologists who engage in the fitting or selling of hearing aids shall deliver to each person supplied with a hearing aid, a bill of sale which shall contain the dispenser's signature, address and license number, together with a description of the make, model and serial number of the hearing aid and the amount charged. The bill of sale shall also indicate whether the hearing aid is new, used, or reconditioned.

G. Audiologists who meet the qualifications for licensure as an audiologist and who were exempt under R.S. 37:2464.A as part of their employment with a state health agency may register as dispensing audiologists by presenting

proof of employment and dispensing experience in that job setting.

H. Audiologists who meet the qualifications for licensure as an audiologist but lack the coursework and practicum requirements necessary for registration as a dispenser may fulfill the requirements by completing nine months of postgraduate professional employment/experience under the supervision of a licensed dispensing audiologist, and by proof of the successful completion of a study course by the National Institute for Hearing Instruments Studies, or its equivalent. Equivalency for National Institute for Hearing Instruments Studies is defined as:

1. an individualized program of study that may include:

- a. hearing aid fitting courses sponsored by hearing aid manufacturers;
- b. university programs; or
- c. programs of independent study;

2. any individualized program of study shall be submitted to the board a minimum of 60 days in advance for pre-approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 22:353 (May 1996), amended LR 27:201 (February 2001), LR 28:

§125. Disciplinary Actions

A. This board may refuse to issue, may suspend or revoke a license for the practice of speech-language pathology or audiology or otherwise discipline an applicant or licensee, upon finding that the applicant or licensee has violated any provisions of R.S. 37:2650, et seq., or any of the rules or regulations promulgated by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), LR 22:354 (May 1996), LR 28:

§507. General Procedural Rules For Hearings

A. The board is empowered to issue subpoenas upon receipt of a written request from the licensee or attorney general at least 15 days in advance of any scheduled hearing. The board shall issue said subpoenas upon receipt of said written request and receipt of any and all fees for subpoenas as provided for in §111.R promulgated by the board.

B. The board may petition a court of competent jurisdiction for a contempt rule to show cause when there is a failure to comply with a subpoena.

C. The board shall elect from its membership a person to act as presiding officer of the hearing. The presiding officer shall have the power to: regulate the discovery process; hold pre-hearing conferences for the simplification or settlement of issues; convene the hearing; place witnesses under oath; take action necessary to maintain order; rule on motions and procedural questions arising prior to, during or after the hearing; rule on objections and admissibility of evidence; call recesses or adjourn the hearing; and prescribe and enforce general rules of conduct and decorum. The other board members may not delegate their decision making and fact finding duties to the presiding officer, nor shall the presiding officer have any greater weight in the decision

making process than any other board member. The board's findings of fact and conclusions of law shall be signed by a majority of the hearing panel finding those facts and conclusions of law. Any member of the hearing panel disagreeing with those findings and conclusions may also file a dissent in the record with her/his decisions therefore.

D. Any board member having reason to believe that s/he is biased against one of the parties in the proceeding, or has a personal interest in the outcome of the proceeding, shall immediately notify the other board members and request to be disqualified. Any party to a hearing may file with the board an affidavit requesting a disqualification of a board member from the formal hearing because of the board member's bias or personal interest. As soon as possible, but no later than the beginning of the hearing, the majority of the board shall pass upon any request for disqualification. The concerned board member shall not participate in the deliberation of the board on the issue of disqualification, and shall not vote on the issue. If the board determines that there is no merit to the request for disqualification, the board shall proceed with the hearing. Any doubt concerning the fitness of a board member shall be resolved in favor of disqualification. In the event disqualification occurs, the board shall immediately request the governor to appoint a board member pro tem to replace the disqualified member for the hearing in progress only.

E. The parties to the hearing are urged, but not required, to confer prior to the hearing, through their respective counsel, or personally, to attempt to reduce or simplify the issues to be heard. The board shall honor any stipulations arrived at between the parties as proven facts at the hearing. The purpose at the pre-hearing conference is to insure that the hearing is not unusually delayed by receiving testimony or other evidence on matters which are not seriously in dispute between the parties.

F. The procedures to be followed in conducting the hearing governing the order of the proceedings are contained in Chapter 12 of the *Disciplinary Action Manual For Occupational Licensing Boards* prepared by the Louisiana Department of Justice, 1979, through the office of the attorney general. A copy of the chapter will be provided to any interested party involved with the hearing upon receipt by the board of a written request therefore.

G. Parties may conduct discovery pursuant to the Administrative Procedure Act, R.S. 49:950, et seq. Said discovery shall not unduly delay the hearing before the board.

H. For good cause shown, the board has discretion to extend or continue the time set for the hearing for such reasons as ill health, inability to obtain counsel, the complexities of the case, or such other matters deemed by the board to constitute good cause.

I. Upon request by either the licensee or the attorney general, witnesses shall be sequestered and not allowed in the hearing chambers during the hearing or permitted to discuss their testimony with other witnesses prior to the conclusion of the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 17:374 (April, 1991),

amended LR 22:358 (May 1996), LR 27:201 (February 2001), LR 28:

Interested persons may submit written comments to Suzanne L. Pevey, Administrator, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, 18550 Highland Road, Suite B., Baton Rouge, Louisiana 70809. She is responsible for responding to inquiries regarding these proposed amendments. The deadline for the receipt of all written comments is 4:30 p.m., on December 28, 2001.

Glenn M. Waguespack, L-AUD
Chairperson

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Speech-Language Pathology and
Audiology**

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

The Louisiana Board of Examiners for Speech-Language Pathology and Audiology estimates that it will cost approximately \$450.00 to implement the proposed amendments to the Board's Rules, Regulations and Procedures.

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

The implementation of the proposed rules will not have an effect on revenue collections of state or local governmental units. The proposed rule changes are for clarification and to correct codification errors in the rules that were promulgated and adopted on January 5, 2001.

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

There will be no cost to directly affected persons based on the proposed amendments.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There will be no effect on competition and employment related to the proposed rules.

Suzanne L. Pevey
Administrator
0110#022

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Integrative and Complementary Medicine
(LAC 46:XLV.Chapter 71)**

Notice is hereby given, in accordance with R.S. 49:953, that the Louisiana State Board of Medical Examiners (Board), pursuant to the authority vested in the Board by the Louisiana Medical Practice Act, R.S. 37:1261-1292, and particularly R.S. 37:1270(B), intends to adopt rules governing the utilization of integrative or complementary medicine, LAC 46:XLV, Subpart 3, Chapter 71, §§7101-7111. The proposed rules define integrative or complementary medicine, distinguish it from conventional medicine practices and authorize a physician to exercise professional judgment as to whether and when it should be utilized in the diagnosis or treatment of a patient. Pursuant to

such rules utilization of integrative or complementary medicine may be undertaken by a physician or an appropriately trained individual working under physician on-site supervision and direction, for whom the physician retains professional responsibility to the patient. The proposed rules also establish an advisory committee to assist the Board on a variety of issues respecting integrative or complementary medicine.

The proposed rules have no known impact on family, formation, stability or autonomy as described in R.S. 49:972.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 3. Practice

Chapter 71. Integrative And Complementary Medicine

Subchapter A. General Provisions

§7101. Scope of Chapter

A. The rules of this Chapter govern physician use of integrative or complementary medicine in the treatment of patients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 28:

§7103. Definitions

A. As used in this Chapter, unless the content clearly states otherwise, the following terms and phrases shall have the meanings specified.

Board the Louisiana State Board of Medical Examiners.

Controlled Substance any substance defined, enumerated or included in federal or state regulations or statute 21 CFR 1308.11-15 or R.S. 40:964, or any substance which may hereafter be designated as a controlled substance by amendment or supplementation of such regulations or statute.

Conventional or Conventional Medicine diagnostic methods or therapies offered or employed by a physician, or under his on-site supervision and direction, in the diagnosis, prevention or treatment of any illness, disease or condition which are generally accepted and recognized as falling within the standard of care in the course of medical practice based upon medical training, experience and peer reviewed scientific literature.

Integrative or Complementary Medicine diagnostic methods or therapies offered or employed by a physician, or under his on-site supervision and direction, in addition or as an alternative to conventional medicine methods or therapies, in the diagnosis, prevention or treatment of any illness, disease or condition which do not, in the judgment of the physician, pose a safety risk for a patient that is unreasonably greater than conventional medicine methods or therapies and provided there exists a reasonable probability for diagnostic or therapeutic effectiveness in its intended use. Integrative or complementary medicine does not include the use of controlled substances in the treatment of patients suffering from chemical dependency.

On-Site Supervision and Direction medical functions or procedures performed under physician supervision and direction by an appropriately trained and qualified non-physician in the course and scope of his or her employment

or contractual relationship with a physician, when such physician is physically present on the premises at all times that such non-physician is on duty and retains full responsibility to patients and the board for the manner and results of all services rendered. On-site supervision and direction shall not be construed under any circumstances to permit a non-physician to act independently of a physician or exercise independent medical judgment in rendering a diagnosis, prescribing medication or in implementing modalities of diagnosis or treatment.

Physician a person possessing a current license issued by the board to practice medicine in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 28:

§7105. General Conditions/Prohibitions

A. The use of integrative or complementary medicine for the diagnosis or treatment of any illness, disease or condition, constitutes legitimate medical therapy when provided in the course of professional medical practice, complies with the standard of care applicable to conventional medicine practitioners, and when fully documented in the patient's medical record. Any physician utilizing integrative or complementary medicine shall do so in strict compliance with the rules enumerated in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 28:

§7107. Use of Integrative or Complementary Medicine; Limitations

A. Requisite Prior Conditions. Any physician offering or utilizing integrative or complementary medicine shall comply with the following rules.

1. Evaluation of the Patient. Prior to offering integrative or complementary medicine a physician shall perform an evaluation of the patient that shall include but not be limited to any conventional methods of diagnosis which, in the judgment of the physician, are deemed necessary or appropriate to the condition of the patient. Such an evaluation shall include:

- a. a relevant medical history;
- b. an appropriate physical examination; and
- c. a review of the results of any relevant diagnostic studies or therapies undertaken or previously attempted.

2. Medical Diagnosis. A medical diagnosis shall be established by the physician and documented in the patient's medical record, which indicates the nature of the patient's illness, disease, condition or other reason for which treatment is being sought if determinable.

3. Treatment Plan. A treatment plan by which progress or success can be evaluated with stated objectives shall be formulated by the physician which is tailored to the individual needs of the patient and documented in the patient's medical record. Such plan shall include documentation of:

- a. whether conventional or complementary methods of diagnosis or treatment have been considered, are being undertaken or have been attempted without adequate or reasonable success or a statement that the patient has refused such methods;

b. consideration for the need for conventional testing, consultation, referral or treatment when indicated;

c. the intended role of integrative or complementary medicine within the overall plan; and

d. whether integrative or complementary medicine offered or utilized could interfere with any ongoing conventional therapy.

4. Informed Consent. A physician shall inform a patient or his guardian of each of the following, which discussions shall be noted in some form in the patient's record:

a. his education, experience and credentials regarding any integrative or complementary medicine which is recommended; and

b. the risks and benefits of both conventional medicine and integrative or complementary medicine incorporated within each treatment plan.

B. A physician should consider informing the patient that his recommendation for the use of a particular drug, substance or medical device for diagnosis or treatment of the patient's illness, disease or condition is investigational, experimental, new, unconventional or unproven.

C. Initiation of Integrative or Complementary Medicine. Upon completion and satisfaction of the conditions prescribed in §7107.A.-B, and upon a physician's judgment that integrative or complementary medicine is warranted for purposes of diagnosis or treatment, a physician shall adhere to the following rules.

1. Assessment of Treatment Efficacy and Monitoring. Patients shall be seen by the physician at intervals appropriate to the danger or safety risk of the diagnostic methods or therapy provided, to assess the efficacy thereof, assure that all treatment recommended or prescribed remains indicated and evaluate the patient's progress toward treatment objectives and any adverse effects. During each visit attention should be given to the need for additional methods of diagnosis, consultation, referral or treatment. Lack of progress from integrative or complementary medicine therapy, or a worsening of symptoms, signs or prognosis, shall indicate the need to revise the treatment plan.

2. Consultation. Physicians should be willing to refer a patient as necessary for additional evaluation or treatment by conventional or integrative or complementary methods, particularly in those patients who are at risk from a potentially life-threatening illness, disease or condition.

3. Medication/Medical Devices Employed. A physician shall document in the patient's medical record the medical rationale for the use of any medication or substance, including a controlled substance, and any medical device employed in the diagnosis or treatment of a patient's illness, disease or condition. The use of controlled substances for the treatment of obesity and chronic or intractable pain shall be in conformity with §6901 et seq. and §6915 et seq., respectively, of the board's rules.

4. Treatment Records. A physician shall document and maintain in the patient's medical record, accurate and complete records of history, physical and other examinations and diagnostic evaluations, consultations, laboratory and diagnostic reports, treatment plans and objectives, medications, including controlled substances, informed consents, periodic assessments and the results of all

conventional and integrative or complementary medicine therapies utilized.

§7109. Effect of Violation

A. Any violation or failure of compliance with the provisions of this Chapter, §§7101-7107, shall be deemed unprofessional conduct and conduct in contravention of the board's rules, in violation of R.S. 37:1285(A)(13) and (30) respectively, as well as violation of any other applicable provision of R.S. 37:1285(A), providing cause for the board to suspend, revoke, refuse to issue, or impose probationary or other restrictions on any license held or applied for by a physician to practice medicine in the state of Louisiana culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 28:

Subchapter B. Integrative or Complementary Medicine Advisory Committee

§7111. Organization, Authority and Responsibilities

A. Constitution. An Integrative and Complementary Medicine Advisory Committee (the "advisory committee") to the board is hereby constituted to be composed, appointed and to have such functions as hereinafter provided.

B. Composition and Qualifications. The advisory committee shall be comprised of up to five physicians each of whom shall be in good standing with the board, have practiced and resided within the state of Louisiana for not less than one year, possess experience in and have specialized in integrative or complementary medicine for not less than three years.

C. Appointment; Term of Service. Of the board's initial appointments, two members of the advisory committee will be appointed to serve terms expiring on the last day of the year of appointment with the remaining members to serve terms expiring on the last day of the year succeeding the year of appointment. Thereafter, each member of the advisory committee shall serve a term of two years or until his or her successor is appointed. Advisory committee members shall be eligible for reappointment. All members of the advisory committee shall serve and be subject to removal at any time at the pleasure of the board. Members appointed to the advisory committee to fill a vacancy occurring other than by expiration of the designated term shall serve for the unexpired term. Other than the initial appointments provided for herein, board appointments to the advisory committee shall be effective when made with respect to appointments for unexpired terms and otherwise shall be effective as of the first day of the year following the date of appointment.

D. Functions and Responsibilities of the Committee. The advisory committee is responsible and authorized by the board to:

1. provide advice and recommendations to the board respecting the modification, amendment and supplementation of rules and regulations, standards of care and policies and procedures respecting integrative or complementary medicine;

2. advise, assist and provide the board with such information and expertise as it may request and upon which it may rely, with respect to investigative and/or disciplinary proceedings affecting physicians utilizing integrative or complementary medicine;

3. serve as a liaison between the board and physicians practicing integrative or complementary medicine;

4. perform such other functions and provide such additional advice and recommendations as may be requested by the board; and

5. receive reimbursement for attendance at board meetings and for other expenses when specifically authorized by the board.

E. Confidentiality. In discharging the functions authorized under §7111, the advisory committee and the individual members thereof, when acting within the scope of such authority, shall be deemed agents of the board. All information obtained by the advisory committee members pursuant to §7111.D of this Chapter or otherwise shall be considered confidential. Advisory committee members are prohibited from communicating, disclosing, or in any way releasing to anyone, other than the board, its employees or agents, any information or documents obtained when acting as agents of the board without first obtaining written authorization of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 28:

Interested persons may submit written data, views, arguments, information or comments on the proposed rules until 4:00 p.m., December 21, 2001, to John B. Bobear, M.D., Interim Executive Director, Louisiana State Board of Medical Examiners, at P.O. Box 30250, New Orleans, LA, 70190-0250 (630 Camp Street, New Orleans, LA, 70130).

John B. Bobear, M.D.
Interim Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Integrative and Complementary Medicine

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

Other than the rule publication costs, the total of which are estimated to be \$800 over the years FY 2001 and FY 2002, the proposed rules will not result in costs or savings to the Board of Medical Examiners or any state or local governmental unit.

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

Because the proposed rules affect only the scope of application of substantive regulations which do not affect board revenues, it is not anticipated that the proposed rules will have any effect on the revenue collections of the board or of any other state or local governmental unit.

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

Physicians may exercise professional judgment with respect to the use of integrative or complementary modalities for diagnosis or treatment of patients. Physicians, and patients who desire to receive such modalities on their physician's advice, may be affected by the proposed rules. It is not anticipated, however, that the proposed rules will have any material effect on the costs of such groups attributable to changes in workload or additional paperwork, nor will they result in any costs and/or economic benefits to directly affected persons.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rules will have any impact on competition and employment in either the public or private sector.

John B. Bobear, M.D.
Interim Executive Director
0111#070

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Medical Examiners

Temporary Permits for Athletic Trainers (LAC 46:XLV.3162)

Notice is hereby given in accordance with R.S. 49:953 that the Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by the Louisiana Medical Practice Act, R.S. 37:1261-1292, and particularly R.S. 37:1270(B), as well as the Athletic Trainers Law, R.S. 37:3301-3312, and particularly R.S. 3:3303.A(4), intends to amend its administrative rules governing athletic trainers to provide for the issuance of temporary permits, under specified conditions, which allow an athletic trainer to work under the supervision and direction of a certified athletic trainer pending certification by the Board, LAC 46:XLV, Subpart 2, Chapter 31, Subchapter G, §3162. Such amendments would allow the board to issue a temporary permit to an applicant for certification as an athletic trainer, otherwise completely qualified for certification, who is scheduled to take or awaiting the results of the examination required for the issuance of certification, whose application is pending consideration by the board, to one under consideration for an H1 or equivalent visa by the United States Immigration and Naturalization Service, or in such other instances as the board may deem proper.

The proposed rule amendments have no known impact on family, formation, stability or autonomy as described in R.S. 49:972.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 2. Licensing and Certification

Chapter 31. Athletic Trainers

Subchapter G. Certificate Issuance, Termination, Renewal, Reinstatement

§3162. Restricted Certificates

A. General. With respect to applicants who do not meet or possess all of the qualifications and requirements for certification required by this Chapter the board may, in its discretion, issue such temporary restricted certificates as are in its judgment necessary or appropriate to its responsibilities under law. Temporary restricted certificates shall be designated and known as permits.

B. Effect of Permit. A permit entitles the holder to engage in the practice of athletic training in the state of Louisiana only for the period of time specified by such permit and creates no right or entitlement to certification or renewal of the permit after its expiration.

C. Types of Permits. The types of permits that the board may consider issuing are enumerated in the following paragraphs of this section. Other permits may be issued by the board upon such terms, conditions, limitations, or restrictions as to time, place, nature, and scope of practice as deemed, in its judgment, necessary or appropriate to the particular circumstances of individual applicants.

D. Limitations. Athletic trainers holding any permit issued under this Section may practice athletic training only under the supervision and direction of a certified athletic trainer who holds certification issued by the board, who shall provide such on-premises supervision and direction to the permit holder as is adequate to ensure the safety and welfare of athletes. Such supervision and direction shall be deemed to be satisfied by on-premises direction and supervision for not less than one hour each week.

E. Permit Pending Application for Visa. The board may issue a permit to practice athletic training to an applicant who is otherwise completely qualified for certification as an athletic trainer, save for possessing an H1 or equivalent visa, provided that the applicant has completed all applicable requirements and procedures for issuance of certification or a permit and is eligible for an H-1 or equivalent visa under the rules and regulations promulgated by the United States Immigration and Naturalization Service (INS).

1. A permit issued under §3162.E shall expire and become null and void on the earlier of:

- 90 days from the date of issuance of such permit;
- 10 days following the date on which the applicant receives notice of INS action granting or denying the applicant's petition for an H-1 or equivalent visa; or
- the date on which the board gives notice to the applicant of its final action granting or denying issuance of certification to practice athletic training.

2. The board may in its discretion extend or renew, for one or more additional 90-day periods, a permit that has expired pursuant to §3162.E1.a in favor of an applicant who holds such a permit and who has filed a petition for an H-1 or equivalent visa with the INS, but whose pending petition has not yet been acted on by the INS within 90 days from issuance of such permit.

F. Permit Pending Examination/Results. The board may issue a permit to practice athletic training to an applicant who has taken the examination required by §3107.A.4 but whose scores have not yet been reported or to an applicant scheduled to take the examination at its next administration who has not previously failed such examination, to be effective pending the reporting of such scores to the board, provided that the applicant possesses and meets all of the qualifications and requirements for certification required under this Chapter, save for having taken, passed, or received the results of the examination specified in §3107.A.4.

1. A permit issued under §3162.F shall expire, and thereby become null, void and to no effect on the earlier of any date that:

- the board gives written notice to the permit holder that he has failed to achieve a passing score on the certification examination;
- the board gives written notice to the permit holder pursuant to §3143.C that it has probable cause to believe that he has engaged or attempted to engage in

conduct which subverted or undermined the integrity of the examination process;

- the permit holder is issued a certificate to practice athletic training pursuant to §3153 of this Chapter; or

- the holder of a permit issued under §3162.F fails to appear for and take the certification examination for which he has registered.

2. The board may, in its discretion, extend or renew a permit which has expired pursuant to §3162.F.1 in favor of an applicant who makes written request to the board and evidences to its satisfaction a life-threatening or other significant medical condition, financial hardship or other extenuating circumstance.

G Permit Pending Application. The board may issue a permit to practice athletic training, effective for a period of 60 days, to an applicant who has made application to the board for certification as an athletic trainer, who provides satisfactory evidence of having successfully completed the examination required by §3107.A.4 and who is not otherwise demonstrably ineligible for certification under R.S. 37:3307.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, R.S. 37:1270, R.S. 37:3301-3312 and R.S. 37:3303.A(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 28:

Interested persons may submit written data, views, arguments, information or comments on the proposed rule amendments until 4:00 p.m., December 21, 2001, to John B. Bobear, M.D., Interim Executive Director, Louisiana State Board of Medical Examiners, at P.O. Box 30250, New Orleans, LA 70190-0250 (630 Camp Street, New Orleans, LA 70130).

John B. Bobear, M.D.
Interim Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Temporary Permits for Athletic
Trainers**

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

Other than the rule publication costs, the total of which are estimated to be \$400 in FY 2001 and FY 2002, it is not anticipated that implementation of the proposed rule amendments will result in any costs to the board or any other state or local governmental unit. The board does not anticipate that adoption of the proposed amendments will result in either an increase or reduction in workload or any additional paperwork.

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

The proposed rule amendments will not affect board revenues, nor will any increase or decrease in revenues result from the proposed rule amendments.

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

Certain applicants who seek certification to practice athletic training will benefit from the availability of a temporary restricted certificate ("permit") to practice under supervision and direction. It is not anticipated, however, that the amendments will have any material economic affect on costs of

such groups attributable to changes in workload or additional paperwork.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rule amendments will have any impact on competition and employment in either the public or private sector.

John B. Bobear
Interim Executive Director
0111#069

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Licensed Professional Vocational
Rehabilitation Counselors Board of Examiners

Vocational Rehabilitation Counselors
Professional Ethics
(LAC 46:LXXXVI.502, 503,
705, 1101, Chapters 16 and 17)

Notice is hereby given, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., that the Louisiana Licensed Professional Vocational Rehabilitation Counselors Board of Examiners pursuant to the authority vested in it by R.S. 37:3445, intends to amend the Professional and Occupational Standards pertaining to Vocational Rehabilitation Counselors in order to make such rules consistent with changes in statutory law, and in order to adopt ethical standards and rules and procedures applicable to enforcement of ethical standards. The proposed amendments to the rules are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LXXXVI. Vocational Rehabilitation Counselors

Chapter 5. License and Practice of Vocational
Rehabilitation Counseling

§501. License of Title and Practice as Stated in R.S.
37:3450

A. No person shall assume or use the title or designation "Licensed Professional Vocational Rehabilitation Counselor" or engage in the practice of vocational rehabilitation counseling unless he has in his possession a valid license issued by the board under the authority of this chapter. Only persons in possession of a valid license issued by the board under the authority of this chapter may perform vocational rehabilitation services.

B. Except as provided in R.S. 37:3452, no person shall perform the services of a vocational rehabilitation counselor unless he has in his possession a valid license issued by the board under the authority of this Chapter.

C. Except as provided in R.S. 37:3452, no person shall hold himself out as an expert of vocational rehabilitation services unless he has in his possession a valid license issued by the board under the authority of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 15:277 (April 1989), amended by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§503. Definitions

A. For purposes of this rule, the following definitions will apply:

* * *

Practice of Rehabilitation Counseling means offering or offering to individuals, groups, organizations, or the general public rehabilitation services in private practice for compensation involving the application of principles, methods, or procedures of the rehabilitation counseling profession which include but are not limited to:

1. - 2. ...

3. *Vocational Rehabilitation Services* includes, but is not limited to, vocational assessment, vocational counseling, education, and training services, including on-the-job training, self-employment plans, job analysis, and job placement. For purposes of this Chapter, "vocational assessment" includes, but is not limited to, the administration, interpretation, and use of single scale screening tests of intelligence and tests of education, achievement, personal traits, interests, aptitudes, abilities, language, adaptive behavioral tests, and symptom screening checklist, solely to define vocational goals and plan actions as related to rehabilitation concerns, educational progress, and occupations and careers.

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3443 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 15:277 (April 1989), amended by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 19:1569 (December 1993), LR 28:

Chapter 7. Requirements for Licensure and Renewal
of License

§705. Renewal

A. A license issued pursuant hereto shall be renewed annually by payment of the renewal fee every year prior to August first, and by meeting the requirement that 30 clock hours of continuing education be obtained during a two-year period in an area of professional rehabilitation counseling as approved by CRC or by the board. The chairman shall issue a document renewing the license for a term of one year. Beginning August 1, 1994, all persons holding a license will begin a new two year period for clock hours. Anyone licensed during the year out of sync with the Board fiscal year will be required to acquire a pro rata share of hours as determined by the board for their first two year period. All license holders will be required to renew every year with their training hours acquired over a two year period. Renewal must be completed within 60 days of the August first deadline for each renewal year. If the renewal is not submitted within that time frame, the license shall lapse. and the applicant must meet all existing licensure requirements to be issued a license.

B. A licensee may request retirement status if he is not going to engage in private practice for the next year or longer. Under retirement status the licensee would not be required to submit continuing education credits. If a retiree wishes to reactivate, he would need to do the following:

1. notify the board;
2. complete an application for reactivation;
3. pay the existing renewal fee;

4. begin documentation of continuing education hours.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3447.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 15:277 (April 1989), amended by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 19:1571 (December 1993), LR 28:

Chapter 11. License

§1101. Denial, Revocation, or Suspension of License

A. The board, by affirmative vote of at least four of its five members, shall withhold, deny, revoke, or suspend any license issued or applied for in accordance with the provisions of R.S. 37:3441-3452 or otherwise discipline a person holding such a license upon proof that the applicant or licensee:

A1. - 2. ...

3. is abusing drugs or alcohol an extent or in a manner dangerous to any other person or the public, or to an extent that said use impairs his ability to engage in the practice of rehabilitation counseling or perform rehabilitation counseling services or perform vocational rehabilitation services;

4. has impersonated another person holding a license issued by the Board or allowed another person to use his license;

A.5. - D. ...

E. The board is authorized to suspend a license issued by it for a period not exceeding two years. At the end of this period, the board shall re-evaluate the suspension and may recommend to the chairman the reinstatement or revocation of the license. A person whose license has been revoked may apply for reinstatement after a period of not less than two years from the date such denial or revocation is legally effective, the board may, upon favorable action by a majority of the board members present and voting, recommend such reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 15:277 (April 1989), amended by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

Chapter 16. Code of Professional Ethics for Licensed Rehabilitation Counselors

§1600. General

A. Licensed rehabilitation counselors are committed to facilitating the personal, social, and economic independence of individuals with disabilities. In fulfilling this commitment, licensed rehabilitation counselors work with various people, programs, institutions, and service delivery systems. Licensed rehabilitation counselors recognize that their actions (or inaction) can either aid or hinder clients in achieving their rehabilitation objectives, and they accept this responsibility as part of their professional obligations. Licensed rehabilitation counselors may be called upon to provide various kinds of assistance including: counseling; vocational explorations; vocational assessment and testing; evaluations of social, medical, vocational, and psychiatric information; job placement and job development activities;

forensic assessments; and other types of rehabilitation services. They are required to do so in a manner that is consistent with their education and experience. Moreover, licensed rehabilitation counselors must demonstrate their adherence to ethical standards and ensure that the standards are vigorously enforced. The Code of Professional Ethics for Licensed Rehabilitation Counselors (henceforth referred to as the Code) is designated to facilitate the achievement of these goals.

B. The primary obligation of licensed rehabilitation counselors is to their clients (defined in the Code as individuals with disabilities who are receiving services from licensed rehabilitation counselors). The objective of the Code is to promote public welfare by specifying and enforcing ethical standards of behavior expected of licensed rehabilitation counselors. Accordingly, the Code contains two kinds of standards: Canons and Rules of Professional Conduct.

C. The Canons are general standards of an aspirational and inspirational nature that reflect the fundamental spirit of caring and respect which professionals share. They are maxims designed to serve as models of exemplary professional conduct. The Canons also express general concepts and principles from which the more specific Rules are derived. Unlike the Canons, the Rules are exacting standards intended to provide guidance in specific circumstances.

D. Licensed rehabilitation counselors who violate the Code are subject to disciplinary action. A violation of a Rule is interpreted as a violation of the applicable Canon and the general principles it embodies. Since the use of Licensed Rehabilitation Counselor (LRC) designation is a privilege granted by the Louisiana Licensed Professional Vocational Rehabilitation Counselors Board of Examiners (LLPVR), the Board reserves unto itself the power to suspend or revoke this privilege or to impose other penalties for a Rule violation. Disciplinary penalties are imposed as warranted by the severity of the offense and its attendant circumstances. All disciplinary actions are undertaken in accordance with published procedures and penalties that are designed to ensure proper enforcement of the Code within a framework of due process and equal protection under the law.

E. When there is reason to question the ethical propriety of specific behavior, individuals are encouraged to refrain from such behavior until the matter has been clarified. LRCs who need assistance in interpreting the Code should write to the Board to request an advisory opinion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1601. Canon 1: Moral And Legal Standards

A. Licensed rehabilitation counselors shall behave in a legal, ethical, and moral manner in the conduct of their profession, maintaining the integrity of the Code and avoiding any behavior that would cause harm to others. The Rules of Professional Conduct governing compliance with this Canon are as follows.

1. Licensed rehabilitation counselors will obey the laws and statutes of the legal jurisdiction in which they practice.

2. Licensed rehabilitation counselors will be thoroughly familiar with and observe the legal limitations of the services they offer to clients. They will discuss these limitations as well as all benefits available to the clients they serve in order to facilitate open, honest communications and avoid unrealistic expectations.

3. Licensed rehabilitation counselors will be alert to the legal parameters relevant to their practices as well as to any disparities that may exist between legally mandated ethical and professional standards and the Code. Where disparities exist, licensed rehabilitation counselors will follow the legal mandates and formally communicate such disparities to the Ethics Committee. In the absence of legal guidelines, the Code is binding.

4. Licensed rehabilitation counselors will not engage in any act or omission of a dishonest, deceitful, or fraudulent nature in the conduct of their professional activities. They will not allow the pursuit of financial gain or other personal benefits to interfere with the exercise of sound professional judgment and skills, nor will they abuse the relationship with a client to promote their personal or financial gain or the financial gain of an employer.

5. Licensed rehabilitation counselors will understand and abide by the Canons and Rules of Professional Conduct prescribed in the Code.

6. Licensed rehabilitation counselors will not advocate, sanction, participate in, cause to be accomplished, carry out through another or condone any act which they themselves are prohibited from performing by the Code.

7. Moral and ethical standards of behavior are a personal matter for licensed rehabilitation counselors to the same degree as they are for any other citizen, except as such standards may compromise the fulfillment of the individuals' professional responsibilities or reduce public trust in licensed rehabilitation counselors.

8. Licensed rehabilitation counselors will respect the rights and reputation of any institution, organization or firm with which they are associated when making oral or written statements. In those instances where they are critical of policies, they will attempt to effect change through constructive action within the organization.

9. Licensed rehabilitation counselors will refuse to participate in employment practices that are inconsistent with the moral or legal standards regarding the treatment of employees or the public. Licensed rehabilitation counselors will not condone practices that result in illegal or otherwise unjustifiable discrimination on any basis in hiring, promotion or training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1602. Canon 2: Client-Counselor Relationship

A. Licensed rehabilitation counselors shall respect the integrity and protect the welfare of the people and groups with whom they work. The primary obligation of licensed rehabilitation counselors is to their clients (defined as individuals with disabilities who are receiving services from licensed rehabilitation counselors). At all times, licensed rehabilitation counselors shall endeavor to place their clients' interests above their own. The Rules of Professional

Conduct governing compliance with this Canon are as follows:

1. Licensed rehabilitation counselors will clearly communicate to clients the purposes and goals of rehabilitation counseling, and any limitation that may affect the counseling relationship.

2. Licensed rehabilitation counselors will not misrepresent their role or competence to clients. If requested, they will provide information about their credentials, and will refer clients to other specialists as the needs of the clients dictate.

3. Licensed rehabilitation counselors will be continually cognizant of their own needs and values as well as of their potential influence over clients, students, and subordinates. They will avoid exploiting the trust or dependency of such persons. Licensed rehabilitation counselors will make every effort to avoid dual relationships that could impair their professional judgment or increase the risk of exploitation. Examples of dual relationships include, but are not limited to research with and treatment of employees, students, supervisors, close friends, or relatives. Sexual intimacy with clients is unethical.

4. Licensed rehabilitation counselors will not knowingly engage in behavior that is harassing or demeaning to persons with whom they interact in their work based on factors such as those persons' age, gender, race, ethnicity, national origin, religion, sexual orientation, disability, language, or socioeconomic status.

5. Licensed rehabilitation counselors who provide services at the request of a third party will clarify the nature of their relationships to all rightful, legal parties and to all members of the treatment team. Licensed rehabilitation counselors will inform all parties of their ethical responsibilities and take needed actions to assure that all parties understand their ethical responsibilities. Licensed rehabilitation counselors who are employed by third parties as case consultants or expert witnesses, where there is not intent to provide rehabilitation counseling services directly to clients (beyond file review, initial interview, and/or assessment) will clearly define, through written or oral means, the limits of their relationship (particularly in the areas of informed consent and confidentiality) to all rightful, legal parties and to all members of the treatment team. When serving as case consultants or expert witnesses, licensed rehabilitation counselors shall provide unbiased, objective opinions.

6. Licensed rehabilitation counselors will honor the rights of clients to consent to participate and the right to make decisions with regard to rehabilitation services. They will inform the clients or their legal representative, using language that is reasonably understandable to the client and/or legal representative, of factors that may affect the clients' decision to take part in rehabilitation services, and they will obtain written consents once the clients or their legal representatives are fully informed of these factors. Licensed rehabilitation counselors who work with minors or other persons who are unable to give informed, voluntary consent will take special care to protect the interests of their clients.

7. Licensed rehabilitation counselors will avoid initiating or continuing consulting or counseling relationships if it appears there can be no benefit to the

client; in these cases, the licensed rehabilitation counselor will suggest appropriate alternatives to the client.

8. Licensed rehabilitation counselors will recognize that families are usually an important factor in the clients' rehabilitation and will strive to enlist their understanding and involvement as a positive resource in achieving rehabilitation goals. The clients' permission will be secured prior to any family involvement.

9. Licensed rehabilitation counselors and their clients will work together to devise an integrated, individualized rehabilitation plan that promises reasonable success and is consistent with each client's circumstances and abilities. Licensed rehabilitation counselors will continually monitor such plans to ensure their ongoing viability and effectiveness, remembering that clients have the right to make their own choices.

10. Licensed rehabilitation counselors will work with their clients in evaluating potential employment opportunities, considering only those jobs and circumstances that are consistent with the client's overall abilities, vocational limitations, physical and mental restrictions, general temperament, interests and aptitude patterns, social skills, education, general qualifications, and other relevant characteristics and needs. Licensed rehabilitation counselors will neither place nor participate in the placing of clients in positions that could damage the interests and welfare of either the client or the employer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1603. Canon 3: Client Advocacy

A. Licensed rehabilitation counselors shall serve as advocates for individuals with disabilities. The Rules of Professional Conduct governing compliance with this Canon are as follows.

1. Licensed rehabilitation counselors will be obligated at all times to promote better access for individuals with disabilities for facilities, programs, transportation, and communication, so that clients will not be excluded from opportunities to participate fully in rehabilitation, education, and society.

2. Licensed rehabilitation counselors will ensure that programs, facilities, and employment settings are appropriately accessible before referring clients to them.

3. Licensed rehabilitation counselors will strive to understand the accessibility problems individuals with cognitive, hearing, mobility, visual and/or other disabilities face, and to demonstrate this understanding in the practice of their profession.

4. Licensed rehabilitation counselors will strive to eliminate attitudinal barriers, including stereotyping and discrimination, toward individuals with disabilities and to increase their own awareness and sensitivity to such individuals.

5. Licensed rehabilitation counselors will remain aware of the actions taken by cooperating agencies on behalf of their clients and will act as the advocates of such clients to ensure effective service delivery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Social Services. Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1604. Canon 4: Professional Relationships

A. Licensed rehabilitation counselors shall act with integrity in their relationships with colleagues, organizations, agencies, institutions, referral sources, and other professions in order to provide clients with optimum benefits. The Rules of Professional Conduct governing compliance with this Canon are as follows.

1. Licensed rehabilitation counselors will ensure that there is a mutual understanding of the rehabilitation plan by all involved in the rehabilitation of clients and that all rehabilitation plans are developed with such mutual understanding.

2. Licensed rehabilitation counselors will abide by and help to implement "team" decisions when formulating rehabilitation plans and procedures, even if not in personal agreement with such decisions, unless they constitute a breach of ethical conduct.

3. Licensed rehabilitation counselors will not commit receiving counselors to any prescribed course of action in relation to clients they may transfer to other colleagues or agencies. 4. Licensed rehabilitation counselors will promptly supply all information needed for a cooperating agency or counselor to begin serving a client.

5. Licensed rehabilitation counselors will not offer ongoing professional rehabilitation counseling or case management services to clients who are receiving such services from another rehabilitation counselor without first notifying that individual. File reviews and second-opinion services are not included in the concept of professional rehabilitation counseling and case management services and do not require prior notification.

6. Licensed rehabilitation counselors will secure appropriate reports and evaluations from other specialists when such reports may affect rehabilitation planning and/or service delivery.

7. Licensed rehabilitation counselors will not discuss the competency of other rehabilitation counselors or agencies (including the judgments made, methods used or quality of rehabilitation plans) in a disparaging way with their clients.

8. Licensed rehabilitation counselors will not use their professional relationships with supervisors, colleagues, students or employees to exploit them sexually or otherwise. Neither will they engage in or condone sexual harassment (defined as deliberate or repeated comments, gestures or physical contacts of a sexual nature that are unwanted by the recipients).

9. Licensed rehabilitation counselors who know of an ethics violation by another rehabilitation counselor will attempt to resolve the issue informally with that person provided the misconduct is minor in nature and/or appears to be due to a lack of sensitivity, knowledge, or experience. If the violation is more serious or not amenable to an informal resolution, the rehabilitation counselor will bring it to the attention of the appropriate committee on professional ethics

of any professional organization or credentialing body with which the rehabilitation counselor is affiliated.

10. Licensed rehabilitation counselors possessing information of an alleged violation of this Code will reveal such information to the Board or another authority empowered to investigate or act upon the alleged violation, if requested to do so, unless and only to the extent that the information is protected by law.

11. Licensed rehabilitation counselors who employ or supervise students or other professionals will provide appropriate working conditions, timely evaluations, constructive consultations, and suitable experience opportunities to facilitate the professional development of these individuals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1605. Canon 5: Public Statement/Fees

A. Licensed rehabilitation counselors shall adhere to professional standards in establishing fees and promoting their services. The Rules of Professional Conduct governing compliance with this Canon are as follows.

1. Licensed rehabilitation counselors will consider carefully the value of their services and the financial resources of their clients in order to establish reasonable fees for their professional services.

2. Licensed rehabilitation counselors will not accept a fee or any other form of remuneration for their work from clients who are entitled to their services through an institution, agency, or other benefit structure, unless rehabilitation counselors fully inform clients of the availability of services from such other services.

3. Licensed rehabilitation counselors will neither give nor receive commissions, rebates or any other form of remuneration when referring clients for professional services.

4. Licensed rehabilitation counselors who describe the rehabilitation counseling and other services offered to the public will present such information fairly and accurately, avoiding misrepresentation through sensationalism, exaggeration, or superficiality. Licensed rehabilitation counselors will be guided by their primary obligation to aid the public in forming valid opinions and making informed choices and judgments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1606. Canon 6: Confidentiality

A. Licensed rehabilitation counselors shall respect the confidentiality of information obtained from clients in the course of their work. The Rules of Professional Conduct governing compliance with this Canon are as follows.

1. Licensed rehabilitation counselors will inform clients of the limits of confidentiality at the onset of the rehabilitation counseling relationship.

2. Licensed rehabilitation counselors will take reasonable direct action, inform responsible authorities or warn those persons at risk if the condition or actions of a client indicate there is a clear and imminent danger to the

client or others; rehabilitation counselors will take such actions only after advising the client of what must be done. Consultations with other professionals should be used in order to clarify a reasonable course of action. If actions are taken that result in diminished autonomy for a client, they must be taken only after careful deliberation, and clients must be permitted to resume autonomous responsibility as quickly as possible.

3. Licensed rehabilitation counselors will not forward any confidential information to another person, agency, or potential employer without the written permission of the client or the client's legal representative.

4. Licensed rehabilitation counselors will ascertain that the agencies which cooperate in serving their clients have specific policies and practices in place to protect client confidentiality.

5. Licensed rehabilitation counselors will safeguard the maintenance, storage, and disposal of client records so unauthorized persons cannot gain access to them. Any non-professional who must be given access to a client's records will be thoroughly instructed by the licensed rehabilitation counselor about the confidentiality standards to be observed.

6. Licensed rehabilitation counselors will maintain and dispose of records in accordance with law and in a manner that permits compliance with the requirements of this Code.

7. Licensed rehabilitation counselors will present only germane data in preparing oral and written reports, and will make every effort to avoid undue invasions of privacy.

8. Licensed rehabilitation counselors will obtain written permission from clients or their legal representatives prior to taping or otherwise recording counseling sessions. Even if a legal representative's consent is obtained, rehabilitation counselors will not record sessions against the expressed wishes of their client.

9. Licensed rehabilitation counselors will provide only relevant information about clients seeking jobs to prospective employers. Before releasing any information that might be considered confidential, the rehabilitation counselor will secure the permission of the client or legal representative.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1607. Canon 7: Assessment

A. Licensed rehabilitation counselors shall promote the welfare of clients in the selection, use, and interpretation of assessment measures. The Rules of Professional Conduct governing compliance with this Canon are as follows.

1. Licensed rehabilitation counselors will recognize that different tests require different levels of competence to administer, score, and interpret; they will also recognize the limits of their professional competence and will perform only those functions for which they are trained.

2. Licensed rehabilitation counselors will carefully consider the specific validity, reliability, and appropriateness of tests when selecting them for use in a given situation or for particular clients. They will proceed with caution in attempting to evaluate and interpret the performance of individuals with disabilities, members of minority groups, or persons who are not represented in standardized norms.

Licensed rehabilitation counselors will take into consideration the effects of socioeconomic, ethnic, disability, and cultural factors on test scores.

3. Licensed rehabilitation counselors will administer tests under the conditions established when the tests were standardized. When non-standard conditions are required to accommodate clients with disabilities, or when unusual behaviors or irregularities occur during the testing session, those circumstances will be noted and taken into account when interpreting the test results.

4. Licensed rehabilitation counselors will ensure that instrument limitations are not exceeded, and that periodic assessments are made to prevent client stereotyping.

5. Licensed rehabilitation counselors will inform clients, using language that is reasonably understandable to the client, of the purpose of any testing and the explicit use of the results before administration.

6. Licensed rehabilitation counselors will ensure that an explanation of the test results is provided using language that is reasonably understandable to the person assessed or to another legally authorized person on behalf of the client, unless the nature of the relationship is clearly explained to the client in advance and precludes provision of an explanation of results (such as in some organizational consulting, pre-employment screenings, and forensic evaluations). Regardless of whether the scoring and interpretation are done by the rehabilitation counselor, by assistants, or by automated or other outside services, licensed rehabilitation counselors will take reasonable steps to ensure that appropriate explanations of results are given.

7. Licensed rehabilitation counselors will attempt to ensure that the interpretations produced by automated assessment programs or procedures have been validated through appropriate research. Public offerings of automated test interpretation services will be considered as professional-to-professional consultations. In these instances, the formal responsibility of the consultant is to the consultee, but the ultimate and overriding responsibility is to the client.

8. Licensed rehabilitation counselors will recognize that assessment results may become outdated and will make every effort to avoid the use of obsolete measures. They will not base their assessment decisions or recommendations on data or test results that are outdated for the current purpose.

9. Licensed rehabilitation counselors will refrain from misuse of assessment techniques, results, and interpretations and take reasonable steps to prevent others from misusing the information these techniques provide. This includes refraining from releasing raw test results or raw data to persons who are not qualified to use such information.

10. Licensed rehabilitation counselors will make reasonable efforts to maintain the integrity and security of tests and other assessment techniques consistent with law, contractual obligations, and in a manner that permits compliance with the requirements of this Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1608. Canon 8: Research Activities

A. Licensed rehabilitation counselors shall assist in efforts to expand the knowledge needed to serve individuals

with disabilities more effectively. The Rules of Professional Conduct governing compliance with this Canon are as follows.

1. Licensed rehabilitation counselors will ensure that research data meet rigid standards of validity, accuracy, and protection of confidentiality.

2. Licensed rehabilitation counselors will be aware of and responsive to all pertinent ethical, legal, and scientific guidelines on research with human subjects. When planning such research, rehabilitation counselors will ensure that the project, design, execution, and reporting are in full compliance with such guidelines.

3. Licensed rehabilitation counselors who present case studies in classes, professional meetings, or publications will confine the content to information that can be sufficiently disguised to ensure full protection of client identity.

4. Licensed rehabilitation counselors will credit those who contribute to publications in proportion to the size of their contribution.

5. Licensed rehabilitation counselors recognize that openness and honesty are essential to relationships between rehabilitation counselors and research participants. When a study's methodology requires concealment or deception, the rehabilitation counselor will ensure that participants understand the reasons for such actions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1609. Canon 9: Forensic Activities

A. Licensed rehabilitation counselors who perform forensic functions, such as assessments, interviews, consultations, reports, or expert testimony, must comply with all other provisions of this Code to the extent that they apply to such activities. Licensed rehabilitation counselors base their forensic work on appropriate knowledge of and competence in the areas underlying such work, including specialized knowledge concerning special populations. The Rules of Professional Conduct governing compliance with this Canon are as follows.

1. Licensed rehabilitation counselors' forensic assessments, recommendations, and reports will be based on information and techniques (including personal interviews of the individual, when appropriate) sufficient to provide appropriate substantiation for their findings.

2. Licensed rehabilitation counselors will provide written or oral forensic reports or testimony of the vocational rehabilitation characteristics of an individual only after they have conducted an assessment of the individual adequate to support their statements or conclusions, except as noted in R9.3.

3. Licensed rehabilitation counselors will clarify the impact of their limited information on the reliability and validity of their reports and testimony, and they will appropriately limit the nature and extent of their conclusions or recommendations, when, despite reasonable efforts, an individual assessment is not feasible.

4. Licensed rehabilitation counselors in most circumstances will avoid performing multiple and potentially conflicting roles in forensic matters. When rehabilitation counselors may be called on to serve in more than one role in a legal proceeding—for example, as a case

consultant or expert witness for one party or for the court and as a fact witness they will clarify role expectations and the extent of confidentiality in advance to the extent feasible, and thereafter as changes occur, in order to avoid compromising their professional judgment and objectivity and in order to avoid misleading others regarding their role.

5. Licensed rehabilitation counselors will testify truthfully, honestly, candidly, and consistent with applicable legal procedures, describe fairly the bases for their testimony and conclusions in forensic testimony and reports. Licensed rehabilitation counselors will acknowledge the limits of their data or conclusions whenever necessary to avoid misleading.

6. Licensed rehabilitation counselors will not be precluded by a prior professional relationship with a party from testifying as a fact witness or from testifying to their services to the extent permitted by applicable law. Licensed rehabilitation counselors will take into account ways in which the prior relationship might affect their professional objectivity or opinions and disclose the potential conflict to the relevant parties.

7. Licensed rehabilitation counselors will be reasonably familiar with the Rules governing their roles in performing forensic activities. Licensed rehabilitation counselors will be aware of the occasionally competing demands placed upon them by these Rules and the requirements of the court system, and will attempt to resolve these conflicts by making known their commitment to this Code and taking steps to resolve the conflict in a responsible manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1610. Canon 10: Competence

A. Licensed rehabilitation counselors shall establish and maintain their professional competence at a level which ensures their clients will receive the benefit of the highest quality of service the profession is capable of offering. The Rules of Professional Conduct governing compliance with this Canon are as follows.

1. Licensed professional counselors will function within the limits of their defined role, training, and technical competency, accepting only those positions for which they are professionally qualified. They will provide services, teach, or conduct research in new areas or involving new techniques only after first undertaking appropriate study, training, supervision, and/or consultation from persons who are competent in those areas or techniques.

2. Licensed rehabilitation counselors will continuously strive, through reading, attending professional meetings, and taking courses of instruction, to remain aware of developments, concepts, and practices that are essential in providing the highest quality of services to their clients.

3. Licensed rehabilitation counselors, recognizing that personal problems may interfere with their professional effectiveness, will refrain from undertaking any activity in which such problems could lead to inadequate performance. If they are already engaged in such a situation when they become aware of a problem, they will seek competent professional assistance to determine if they should limit, suspend, or terminate their professional activities.

4. Licensed rehabilitation counselors who are educators will perform their duties based on careful preparation so that their instruction is accurate, up-to-date, and scholarly.

5. Licensed rehabilitation counselors who are educators will ensure that statements made in catalogs and course outlines are accurate, particularly in terms of subject matter, basis for grading, and teaching methods.

6. Licensed rehabilitation counselors who are educators will maintain high standards of knowledge and skill by presenting information in their field fully and accurately, and by giving appropriate recognition to alternative viewpoints.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1611. Canon 11: LRC Credential

A. Rehabilitation counselors holding the designation of Licensed Rehabilitation Counselor (LRC) shall honor its integrity and respect the limitations placed on its use. The Rules of Professional Conduct governing compliance with this Canon are as follows:

1. Licensed rehabilitation counselors will use the LRC designation only in accordance with state statutory regulation as promulgated by the Louisiana Licensed Professional Vocational Rehabilitation Counselors Board of Examiners (LLPVRC).

2. Licensed rehabilitation counselors will not claim a depth or scope of knowledge, skills, or professional capabilities that are greater than warranted simply because they achieved the LRC designation.

3. Licensed rehabilitation counselors will not write, speak, or act in a way as to lead another to reasonably believe the rehabilitation counselor is an official Board representative unless authorized to do so in writing by the Board.

4. Licensed rehabilitation counselors will not claim possession of unique skills or devices not available to others in the profession unless the existence and efficacy of such skills or devices has been scientifically demonstrated.

5. Licensed rehabilitation counselors will not initiate or support the candidacy of an individual for licensure if that individual is known to engage in professional practices that violate the Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

Chapter 17. Procedures for Processing Ethical Complaints

§1701. General

A. The Louisiana Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, hereafter referred to as the "Board" or "LLPVRC," is dedicated to the promotion of professional rehabilitation counselor practice in Louisiana through licensure to advance the quality of service provided to persons with disabilities.

B. The Board, in furthering its objectives, administers the Code of Professional Ethics for Licensed Rehabilitation

Counselors that has been developed and approved by the Board.

C. The purpose of the LLPVRC Guidelines and Procedures for Processing Ethical Complaints is to facilitate the work of the LLPVRC Ethics Committee ("Committee") by specifying the procedures for a) processing cases of alleged violation of the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors, b) sanctioning licensed rehabilitation counselors (LRC), and c) appeals. The intent of the Board is to monitor the professional conduct of its licensees to promote sound ethical practices. LLPVRC does not, however, warrant the performance of any individual.

D. In the event that the Board receives a complaint concerning an individual who does not possess an LRC designation, a representative of the Board will inform the complainant and may refer the complainant to an appropriate authority.

E. Any failure to disclose pertinent information of which an LRC has direct personal knowledge or any misleading disclosure by an LRC with respect to an ethics charge, criminal case, disciplinary proceeding, or similar matter, concerning him/her, may constitute a violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1702. Ethics Committee Members

A. The Ethics Committee is a standing Committee of the Board. The Committee consists of at least three but no more than five Board members, including Committee Chair, who are appointed by the Chair of the Board. Any vacancy occurring on the Committee will be filled by the Chair of the Board.

B. A quorum of three members of the Committee is necessary to conduct a hearing or any other business to come before the Committee.

C. In the event any member of the Committee has a personal interest in the case or has any knowledge of the case other than what has been provided to all Committee members, he/she shall withdraw from hearing the case. In the event that the Chair shall withdraw, the Board Chair shall appoint another Committee member to act a Chair of the Committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1703 Role and Function

A. The Ethics Committee is responsible for:

1. Educating the licensees and the general public as to the Board's Code of Professional Ethics for Licensed Rehabilitation Counselors;

2. Periodically reviewing and recommending changes in the Code of Professional Ethics for Licensed Rehabilitation Counselors as well as the Guidelines and Procedures for Processing Ethical Complaints;

3. Receiving and processing complaints of alleged violations of the Code of Professional Ethics for Licensed Rehabilitation Counselors; and

4. Receiving and processing questions.

B. The Committee shall meet in person or by telephone conference a minimum of four times per year for processing complaints.

C. In processing complaints of alleged violations, the Committee will compile an objective, factual account of the dispute in question and make the best possible recommendation for the resolution of the case. The Committee, in taking any action, shall do so only for cause, shall only take the degree of disciplinary action that is reasonable, shall utilize these procedures with objectivity and fairness, and, in general, shall act only to further the interests and objectives of the Board and its licensees.

D. If a Committee member excuses himself/herself from a complaint and insufficient members are available to conduct business, the Chair of the Board shall appoint a former LLPVRC Board Member, who is an LRC, to act as a member of the Committee. In the event that no former LLPVRC Board Member is available to act as a member of the Committee, the Chair of the Board shall appoint a member who is a licensee until a sufficient number of members is obtained that constitutes a quorum.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1704. Responsibilities of the Committee Members

A. The Committee members have an obligation to act in an unbiased manner, to work expeditiously, to safeguard the confidentiality of the Committee's activities, and to follow procedures established to protect the rights of all individuals involved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1705. Responsibilities of the Committee Administering the Complaint

A. The responsibilities of the Committee will include, but not be limited to, the following:

1. Review complaints that have been received;

2. Determine whether the alleged behavior, if true, would violate LLPVRC's Code of Professional Ethics for Licensed Rehabilitation Counselors, and whether the Committee should accept the complaint under these rules;

3. Notify the complainant and licensee that the Committee has determined that no action will be taken; or, if action is to be taken, notify the complainant and the LRC of acceptance of the complaint via certified mail and marked "Personal and Confidential";

4. Request additional information from the complainant, licensee, or others;

5. Arrange for legal advice with the assistance of the LLPVRC Chair; and

6. Prepare and send, via certified mail, and marked "Personal and Confidential," communications to the complainant and LRC on the decisions of the Committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1706. Jurisdiction

A. The Committee has jurisdiction to consider whether an individual has violated the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors if the individual is a current licensee of the LLPVRC.

B. Should a respondent attempt to relinquish LLPVRC licensure during the course of any case, the Board reserves the right to continue the matter for a final and binding resolution according to these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1707. Eligibility to File Complaints

A. The Committee will accept complaints that an LRC has violated one or more sections of the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors from the following:

1. Members of the general public who have reason to believe that an LRC has violated the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors.

2. LRCs or members of other helping professions who have reason to believe that a licensee has violated the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors.

3. The Committee Chair when the Committee has reason to believe through information received through materials in the public domain that an LRC has violated the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1708. Time Lines

A. The time lines set forth in these standards are guidelines only and have been established to provide a reasonable framework for processing complaints.

B. The Committee will grant an extension of a deadline requested by a licensee or complainant only when justified by unusual circumstances.

C. LRCs are pledged, in accordance with the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors, to cooperate with proceedings of the Board for any alleged violation of the Code of Professional Ethics for Licensed Rehabilitation Counselors. If the LRC voluntarily relinquishes licensure or if the licensee or complainant fails to cooperate with an ethical inquiry in any way, the Board shall, at its discretion, continue its investigation, noting in its final report the circumstances of the LRC's failure to cooperate. The Committee, in its sole discretion, may terminate the complaint of an uncooperative complainant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1709. Nature of Communication

A. Only signed, written communications regarding ethical complaints against LRCs will be accepted. If telephone inquiries from individuals are received regarding

the filing of complaints, responding to complaints, or providing information regarding complaints, the individuals calling will be informed of the signed, written communication requirement and asked to comply.

B. All correspondence related to a complaint must be addressed to the Ethics Committee, LLPVRC Board of Examiners, P.O. Box 41594, Baton Rouge, LA 70835-1594, and must be marked "Confidential." This process is necessary to protect the confidentiality of the complainant and the LRC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1710. Management of Filed Complaints

A. Upon receipt of complaints, the Committee will communicate to the complainant and LRC in writing, via certified mail marked "Personal and Confidential," noting its receipt of the complaint and its confirmation of the licensed status of the accused LRC.

B. The Committee will determine whether the complaint, if true, would violate one of more sections of the Code of Professional Ethics for Licensed Rehabilitation Counselors. If not, the complaint will not be accepted and the complainant and licensee so informed in writing via certified mail.

C. If the Committee determines that the complaint contains insufficient information to make a fair determination of whether the behavior alleged in the complaint would be cause for action by the Committee, the Committee may request further written information for the complainant or others.

D. When complaints are accepted, the complainant and LRC will be so informed in writing via certified mail.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1711. Notification of LRC

A. Once the complaint has been received, the LRC will be sent a copy of the complaint via certified mail, and marked "Personal and Confidential."

B. If the complaint is accepted, the LRC will be asked to respond in writing to the complaint against him/her, addressing each of the following areas:

1. Acknowledge the section of the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors which he/she has been accused of having violated; and

2. Submit any fact affidavits, documents, or written arguments which he/she wishes to be considered by the Committee in reviewing the complaint.

C. The LRC will be informed that if he/she wants to respond, he/she must do so in writing within thirty (30) days from the date of notification. If the licensee fails to respond in writing to a request from the Committee, the Committee may impose sanctions on the basis of the complaint alone.

D. Should the Committee request further information from the LRC, the licensee shall be given thirty (30) days from the date of request to respond.

E. The Committee may, in its discretion, delay or postpone its review of the case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1712. Disposition of Complaints

A. After receiving the response of the LRC, Committee members will be provided copies of the response and supporting fact affidavits, documents, or written arguments provided by the LRC and others.

B. At the next meeting or teleconference of the Committee, the Committee will discuss the complaint, response, and any supporting documentation.

C. On the basis of the complaint and the LRC's response, the Committee must act as follows.

1. If no violation is found, the case will be closed and all parties will be notified of case closure in writing via certified mail; or

2. If reasonable basis is found to exist for any violation alleged in the complaint, all parties will be notified in writing via certified mail. Upon a finding of reasonable basis, the LRC may make a written request for a hearing before the Committee or the Committee, in its discretion, may initiate a hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1713. Withdrawal of Complaints

A. If the complainant and LRC agree to discontinue the complaint process, the Committee may, at its discretion, complete the adjudication process if available evidence indicates that this is warranted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1714. Ethics Committee Actions

A. Letter of Instruction. In the event it is determined that the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors has been violated, the Committee will consider the degree of harm and significant mitigating circumstances and may issue a letter of instruction, which is not a sanction.

B. Sanctions. In the event it is determined that the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors has been violated, and a letter of instruction is not appropriate, the Committee shall impose one or a combination of the possible sanctions which follow:

1. Reprimand. Remedial requirements may be stipulated by the Committee.

2. Probation for a specified period of time subject to Committee review of compliance. Remedial requirements may be imposed to be completed within a specified period of time.

3. Suspension of LRC license for a specified period of time subject to Committee review of compliance. Remedial requirements may be imposed to be completed within a specified period of time.

4. Revocation of LRC license.

C. The penalty for failing to fulfill, in a satisfactory manner, a remedial requirement imposed by the Committee

as a result of a sanction will be automatic revocation unless the Committee determines that the remedial requirement should be modified based on good cause.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1715. Notification of Results

A. The LRC shall be given a written notice via certified mail of Committee decisions regarding complaints against him/her.

B. If a violation has been found and the LRC's license has been suspended or revoked, other licensure or certification boards, voluntary national certification boards, and appropriate professional associations will also be notified of the results.

C. If a violation has been found and the LRC's license has been suspended or revoked, a notice of the Committee action that includes the section(s) of the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors that were found to have been violated and the sanctions imposed will be published on the LLPVRC website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1716. Hearings

A. A hearing shall be initiated:

1. if the LRC requests a hearing; or
2. at any time at the request of the Committee.

B. If a hearing has been requested or initiated by the Committee, and provided all necessary and requested information is received, the Committee Chair shall schedule a hearing on the case at the next scheduled Committee meeting and notify the complainant and the licensee of their right to attend the hearing.

C. The hearing will be held before the Committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1717. Hearing Procedures

A. Purpose

1. A hearing will be conducted to determine whether a violation of the Code of Professional Ethics for Licensed Rehabilitation Counselors has occurred and, if so, to determine appropriate disciplinary action.

2. The Committee shall be guided in its deliberations by principles of basic fairness and professionalism, and will keep its deliberations as confidential as possible, except as provided herein.

B. Notice

1. The LRC shall be advised in writing via certified mail by the Chair administering the complaint of the time and place of the hearing.

2. If the LRC fails to appear at the hearing, the Committee shall decide the complaint and determine what testimony it will hear on record. Failure of the LRC to appear at the hearing shall not be viewed by the Committee as sufficient grounds alone for taking disciplinary action.

C. Conduct of the Hearing

1. The location of the hearing shall be determined at the discretion of the Committee. The Committee shall provide a private room to conduct the hearing and no observers or recording devices other than a recording device used by the Committee shall be permitted.

2. The Chair administering the complaint shall preside over the hearing and deliberations of the Committee. At the conclusion of the hearing and deliberations of the Committee, the Chair shall promptly issue written notice to the LRC via certified mail of the Committee's decision. The Chair shall also notify the complainant in writing via certified mail of the disposition of the complaint. However, the Chair shall not disclose the disciplinary action, if any, imposed on the licensee.

3. A record of the hearing shall be made and preserved, together with any documents presented in evidence, at the Board's administrative office. The record shall consist of a summary of testimony received or a verbatim transcript, at the discretion of the Committee.

4. The LRC and the complainant shall be entitled to have legal counsel or a representative present to advise and represent them throughout the hearing. Legal counsel for the Board may also be present at the hearing to advise the Committee and shall have the privilege of the floor.

5. Either party shall have the right to call witnesses to substantiate his/her version of the case.

6. The Committee shall have the right to call witnesses it believes may provide further insight into the matter.

7. Witnesses shall not be present during the hearing except when they are called upon to testify and shall be excused upon completion of their testimony and any cross-examination.

8. The Chair administering the complaint shall allow questions to be asked of any witness by the opposition or members of the Committee if such questions and testimony are relevant to the issues in the case.

9. The Chair administering the complaint will determine what questions and testimony are relevant to the case. Should the hearing be subject to irrelevant testimony, the Chair may call a brief recess until order can be restored.

10. Both the complainant and the LRC, and any witnesses and legal counsel that they may have must pay their own expenses. Parties initiating telephone contact will assume the expenses related to the calls.

D. Presentation of Evidence

1. The Chair administering the complaint shall be called upon first to present the charge(s) made against the LRC and to briefly describe the evidence supporting the charge. The Chair shall also be responsible for examining and cross-examining witnesses on behalf of the complainant and for otherwise presenting the matter during the hearing.

2. The complainant or a member of the Committee shall then be called upon to present the case against the LRC. Witnesses who can substantiate the case may be called upon to testify and answer questions of the LRC and the Committee.

3. If the LRC has exercised the right to be present at the hearing, he/she may be called upon to present any evidence which refutes the charges against him/her. This includes witnesses as in Subsection 3 above.

4. The LRC will not be found guilty simply for refusing to testify. Once the LRC chooses to testify, however, he/she may be cross-examined by the complainant and members of the Committee, subject to the constitutional rights of the licensee.

5. Testimony that is merely cumulative or repetitious may, at the discretion of the Chair administering the complaint, be excluded.

6. All parties providing testimony will be required to attest to the veracity of their statements.

E. Relevancy of Evidence:

1. The Committee hearing is not a court of law and is not required to observe formal rules of evidence. Evidence that would be inadmissible in a court of law may be admissible in the hearing before the Committee, if it is relevant to the case. Therefore, if the evidence offered tends to explain, clarify, or refute any of the important facts of the case, it should be considered.

2. The Committee will not consider evidence or testimony for the purpose of supporting any charge that was not set forth in the notice of the hearing or that is not relevant to the issues of the case.

F. Burden of Proof

1. The burden of proving a violation of the Code of Professional Ethics for Licensed Rehabilitation Counselors is on the complainant and/or the Committee.

2. Although the charge(s) need not be proved beyond a reasonable doubt, a Committee finding that an LRC has violated the Code of Professional Ethics for Licensed Rehabilitation Counselors must be supported by substantial, objective, and believable evidence.

G. Deliberation of the Committee:

1. After the hearing is completed, the Committee shall meet in a closed session to review the evidence presented and reach a conclusion. The Board's legal counsel may attend the closed session to advise the Committee if the Committee so desires.

2. The Committee shall be the sole judge of the facts and shall weigh the evidence presented and assess the credibility of the witnesses. The decision of a majority of the members of the Committee present shall be the decision of the Committee and the Board. The Chair shall vote only to break a tie or when the Committee consists of three members.

3. Only members of the Committee who were present throughout the entire hearing shall be eligible to vote.

H. Decision of the Committee:

1. The Committee will first resolve the issue of the guilt or innocence of the LRC on each charge. Applying the burden of proof in Subsection 5 above, the Committee will vote by secret ballot, unless all of the members of the Committee entitled to vote consent to an oral vote.

2. In the event the Committee does not find the licensee guilty, the charges will be dismissed. If the Committee finds the LRC has violated the Code of Professional Ethics for Licensed Rehabilitation Counselors, it must then determine what sanctions shall be imposed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1718. Appeals

A. Decisions of the LLPVCR Ethics Committee that a licensee has violated the Code of Professional Ethics for Licensed Rehabilitation Counselors may be appealed by the LRC found to have been in violation based on one or more of the following grounds.

1. The Committee violated its policies and procedures for processing complaints of ethical violations; and/or

2. The decision of the Committee was arbitrary and capricious and was not supported by the materials provided by the complainant and the licensee.

B. After the LRC has received notification that he/she has been found in violation of one or more sections of the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors, he/she will be given thirty (30) days from the date written notification is sent to notify the Committee in writing via certified mail that he/she is appealing the decision.

C. An appeal must be in writing stating one or more grounds of appeal listed in Section R.1, Subsections a or b above, and the reasons for the appeal.

D. The Board Chair will appoint a three person appeals panel consisting of at least one former Board member, who is currently an LRC, with the balance of the licensees, none of whom served on the Committee at the time the original decision was rendered. The Board's attorney shall serve as legal advisor and have the privilege of the floor.

E. The three member appeals panel will be given copies of the materials available to the Committee when it made its decision, a copy of the hearing transcript if a hearing was held, and a copy of the letter filed by the appealing licensee.

F. The decision of a majority of the members of the appeals panel shall be the final decision. The decision shall be rendered within a reasonable period of time.

G. The decision of the appeals panel may include one of the following.

1. The decision of the Committee is upheld.

2. The decision of the Committee is reversed and/or remanded with guidance to the Committee for a new hearing. The reason for this action will be given in detail to the Committee in writing.

H. When a Committee decision is reversed and/or remanded, the complainant and the LRC will be informed in writing via certified mail and additional information may be requested. The Committee will then render another decision after further hearing.

I. A decision of the appeals panel to uphold the Committee decision is final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1719. Substantial New Evidence

A. In the event substantial new evidence, which was not available to the LRC at the time of the hearing, is presented in a case in which an appeal was not filed, or in a case where a final decision has been rendered, the case may be reopened by the Committee.

B. The Committee will consider substantial new evidence that was unavailable at the time of the hearing and, if it is found to be substantiated and capable of exonerating an LRC whose license was revoked, the Committee will

reopen the case and proceed with the entire complaint process again.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1720. Records

A. The records of the Committee regarding complaints are confidential except as provided herein.

1. All information concerning complaints against LRCs shall be confidential except that the Committee may disclose such information when compelled by a validly issued subpoena or when otherwise required by law or valid court order. In addition, the Committee may disclose to any appropriate organizations or individuals that an individual is under ethical investigation in cases deemed to be threats to the public welfare and only when to do so before final adjudication appears necessary to protect the public.

2. Nothing in this Section shall be construed to prevent the Committee from communicating with the complainant, witnesses, potential members of fact-finding committees, or other sources of information necessary to enable the Committee to carry out its investigative function.

B. Original copies of complaint records will be maintained in locked files at the Board's administrative office or at an off-site location chosen by the Board for a specified period of time listed below:

1. Confidential Permanent Files. Permanent files of the Committee shall be confidential and shall be available only to those specifically authorized by the Committee and by the Chair of the Board.

2. Files for Revocation. Files concerning an LRC whose license has been revoked shall be maintained indefinitely.

3. Files for Non-Violations. Except for those cases for insufficient evidence, personally identifiable information concerning an LRC who has been found not to have violated the Code of Professional Ethics for Licensed Rehabilitation Counselors shall be destroyed one year after the Committee has closed the case.

4. Files for Insufficient Information. In cases where the Committee has closed a case due to evidence insufficient to sustain a complaint of ethical violation, records containing personally identifiable information shall be maintained for five years after the Committee has closed the case.

5. Files of Lesser Sanctions. In cases where the Committee has found an ethical violation but where the sanction is less than revocation, records containing personally identifiable information shall be maintained for five years after the Committee has closed the case.

6. Files After Death. All records containing personally identifiable information shall be destroyed one year after the Commission is notified of the death of the LRC.

7. Records for Educational Purposes. Nothing in this Section shall preclude the Committee from maintaining records in a form which prevents identification of the LRC so that it may be used for archival, educational, or other legitimate purposes.

C. Members of the Committee will keep copies of complaint records confidential and will destroy copies of records on the sooner of the date of case closure under

Section 1, the date the time for appeal has expired, or the date the member is no longer a member of the Committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1721. Legal Actions Related to Complaints

A. LRCs are required to notify the Committee if they learn of any type of legal action (civil or criminal) being filed in relation to the complaint.

B. In the event any type of legal action is filed regarding an accepted complaint, all actions related to the complaint may, at the discretion of the Committee, be stayed until the legal action has been concluded.

C. If actions on a complaint are stayed, the complainant and the LRC will be notified in writing via certified mail.

D. When actions on a complaint are continued after a legal action is concluded, the complainant and the LRC will be notified in writing via certified mail.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

Family Impact Statement

The Licensed Professional Vocational Rehabilitation Counselors Board of Examiners hereby issues this Family Impact Statement: The proposed rule related to the Board's licensing authority will have no known impact on family formation, stability, and autonomy, as set forth in R.S.49:972.

The proposed action of the Licensed Professional Vocational Rehabilitation Counselors Board of Examiners complies with the statutory law administered by the board, R.S. 37:3441-3452. No preamble has been prepared concerning the amendments except for the addition of Chapters 16 and 17 as the proposed amendments simply reflect changes in the statutory law administered by the board. A preamble has been prepared with respect to the adoption of Chapters 16 and 17 related to the adoption of the code of ethics and processing of ethical complaints. The preamble is published herein or a copy may be obtained from the office of the Licensed Professional Vocational Rehabilitation Counselors Board of Examiners at the address set forth hereafter and interested persons may submit written comments on the proposed rules to Robert Gisclair at P.O. Box 41594 or 2156 Wooddale Blvd. Baton Rouge, LA 70835 or by FAX at 924-5073 who will be responsible for responding to inquiries concerning this proposed action. The deadline for receipt of all written comments is 4:30 p.m. on November 20, 2001.

Robert Gisclair
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Vocational Rehabilitation Counselors C Professional Ethics

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

The only implementation cost is the estimated \$1,600 cost of publishing the rules in the *Louisiana Register*.

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

There will be no decrease in revenues. There may be a minimal increase in revenues if additional license applications are made in accordance with the rules, but such additional applications are expected to be negligible.

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

Individuals engaged in activities which require a license pursuant to these rules who are not currently licensed may experience some increased expenditures as required by the licensing procedure and fees. (Most are already licensed). Similarly, since license renewal required continuing education, those not already attaining continuing education, may experience some increased cost to do so. (Most already obtain continuing education.)

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition and employment in the public and private sectors.

Robert Gisclair
Chairman
0111#035

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of Public Health

Reportable Disease

Under the authority of R.S. 40:5 and in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health proposes to amend Chapter II of the Louisiana Sanitary Code.

The threat of new or re-emerging infectious diseases/conditions, as well as, the potential for bioterrorist events, necessitates the addition of several diseases/conditions to the list of reportable diseases/conditions and changes in the time periods for reporting specific diseases/conditions (Section 2:003). The revised list of reportable diseases provides for the addition of the following diseases/conditions: Anthrax, Aseptic meningitis, Brucellosis, Cryptococcosis, Cyclosporiasis, Dengue, EHEC serogroup non 0157, EHEC + shiga toxin not serogrouped, Giardia, Hantavirus Pulmonary Syndrome, Hansen Disease (leprosy), Listeria, Plague, Psittacosis,

Streptococcal pneumoniae (invasive in children <5 years of age), Tularemia, Smallpox and Viral Hemorrhagic fever. This action has become necessary as a result of the recognition of new and re-emerging diseases of public health importance and/or those that may be associated with bioterrorist events. In addition, three diseases were removed from the reportable list for which reports have been rare or sporadic: Amebiasis, Meningitis, other bacterial, fungal and Mycobacteriosis, atypical. The need to categorize the reportable disease/condition list according to time periods for reporting will allow for more timely and efficient public health responses for which active intervention and prevention can be instituted.

Employee Health requirements for tuberculosis control would no longer apply to day care center employees (Section 2:022, 2:023 and 2:024), as no cases of tuberculosis have occurred among them since the requirement was implemented in 1994.

**Sanitary Code
State of Louisiana**

Chapter II. The Control of Disease

2:003 The following diseases or conditions are hereby declared reportable with reporting requirements by Class:

A. Class A Diseases or Conditions Which Shall Require Reporting Within 24 Hours

This class includes diseases of major public health concern because of the severity of disease and potential for epidemic spread. Class A diseases or conditions shall be reported to the Office of Public Health by telephone immediately upon recognition that a case, a suspected case, or a positive laboratory result is known. In addition, all cases of rare or exotic communicable diseases, unexplained death, unusual cluster of disease and all outbreaks shall also be reported.

The following diseases or conditions shall be classified as Class A for reporting requirements:

- Anthrax
- Botulism
- Brucellosis
- Cholera
- Diphtheria
- Haemophilus influenzae (invasive infection)
- Measles (rubeola)
- Neisseria meningitidis (invasive infection)
- Plague
- Rabies (animal and man)
- Rubella (congenital syndrome)
- Rubella (German measles)
- Smallpox
- Tularemia
- Viral Hemorrhagic Fever

B. Class B Diseases or Conditions Which Shall Require Reporting Within 1 Business Day

This class includes diseases of public health concern needing timely response because of potential for epidemic spread. The following Class B diseases shall be reported to

the Office of Public Health by the end of the next business day after the existence of a case, a suspected case, or a positive laboratory result is known
Arthropod-borne encephalitis

- Aseptic meningitis
- Chancroid¹
- E. Coli 0157:H7
- Hantavirus Pulmonary Syndrome
- Hemolytic-Uremic Syndrome
- Hepatitis A (acute illness)
- Hepatitis B (carriage in pregnancy)
- Herpes (neonatal)
- Legionellosis
- Malaria
- Mumps
- Pertussis
- Salmonellosis
- Shigellosis
- Syphilis¹
- Tetanus
- Tuberculosis²
- Typhoid Fever

C. Class C Diseases or Conditions Which Shall Require Reporting Within 5 Business Days

This class shall include the diseases of significant public health concern. The following diseases shall be reported to the Office of Public Health by the end of the workweek after the existence of a case, suspected case, or a positive laboratory result is known

- Acquired Immune Deficiency Syndrome (AIDS)
- Blastomycosis
- Campylobacteriosis
- Chlamydial infection⁰
- Cryptococcosis
- Cryptosporidiosis
- Cyclosporiasis
- Dengue
- EHEC serogroup non 0157
- EHEC + shiga toxin not serogrouped
- Enterococcus -Vancomycin Resistant; (VRE)
- Giardia
- Gonorrhea⁰
- Hansen Disease (leprosy)
- Hepatitis B (acute)
- Hepatitis C (acute)
- Human Immunodeficiency Virus (HIV)
- Listeria
- Lyme Disease
- Lymphogranuloma venereum⁰
- Psittacosis
- Rocky Mountain Spotted Fever (RMSF)
- Staphylococcus aureus, Methicillin/Oxacillin or vancomycin resistant (MRSA)
- Streptococcus pneumoniae [invasive infection; penicillin, resistant (DRSP)]
- Streptococcus pneumoniae (invasive infection in children <5 years of age)
- Varicella (chickenpox)
- Vibrio infections (other than cholera)

D. Other Reportable Conditions

Cancer
Complications of abortion
Congenital hypothyroidism*
Galactosemia*
Hemophilia*
Lead Poisoning
Phenylketonuria*
Reye's Syndrome
Severe traumatic head injury**
Severe undernutrition
(severe anemia, failure to thrive)
Sickle cell disease (newborns)*
Spinal cord injury**
Sudden infant death syndrome (SIDS)

Case reports not requiring special reporting instructions (see below) can be reported by Confidential Disease Case Report forms (2430), facsimile, phone reports, or electronic transmission.

0Report on STD-43 form. Report cases of syphilis with active lesions by telephone.

5Report on CDC72.5 (f.5.2431) card.

*Report to the Louisiana Genetic Diseases Program Office by telephone (504) 568-5070 or FAX (504) 568-7722.

**Report on DDP-3 form; preliminary phone report from ER encouraged (504) 568-2509. Information contained in reports required under this section shall remain confidential in accordance with the law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4; R.S. 40:2 and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:1386, (December 1992), amended LR 20: 1294 (November 1994); LR 28: 2:022 All persons prior to or at the time of employment at any medical or 24-hour residential facility requiring licensing by the Department of Health and Hospitals or any person prior to or at the time of commencing volunteer work involving direct patient care at any medical or 24-hour residential facility requiring licensing by the Department of Health and Hospitals shall be free of tuberculosis in a communicable state as evidenced by either

(1) a negative purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method;

(2) a normal chest x-ray, if the skin test is positive; or

(3) a statement from a licensed physician certifying that the individual is non-infectious if the x-ray is other than normal. The individual shall not be denied access to work solely on the basis of being infected with tuberculosis, provided the infection is not communicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4; R.S. 40:2 and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:1386 (December 1992), amended LR 20:1294 (November 1994), LR 28: 2:023 Any employee or volunteer at any medical or 24-hour residential facility requiring licensing by the Department of Health and Hospitals who has a positive purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, or a chest x-ray other than normal, in order to remain employed or continue work as a volunteer, shall complete an adequate course of chemotherapy for tuberculosis as prescribed by a Louisiana licensed physician, or shall present a signed

statement from a Louisiana licensed physician stating that chemotherapy is not indicated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4; R.S. 40:2 and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:1386 (December 1992), amended LR 29:1294 (November 1994), LR 28: 2:024 Any employee or volunteer at any medical or 24-hour residential facility requiring licensing by the Department of Health and Hospitals who has a negative purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, in order to remain employed or to continue to work as a volunteer, shall be re-tested annually as long as the purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, remains negative. Any employee or volunteer converting from a negative to a positive purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, shall be referred to a physician and followed as indicated in Section 2:023.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4; R.S. 40:2 and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:1386 (December 1992), amended LR 20:1294 (November 1994), LR 28:

Interested persons may submit written comments or questions to: Dr. Raoult Ratard, State Epidemiologist, Infectious Disease Epidemiology Section, Office of Public Health, Department of Health and Hospitals, P.O. Box 60630, New Orleans, LA 70160 within twenty days after the publication of this notice in the Louisiana Register.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Control of Disease

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

It is estimated that the only cost involved in implementation of this rule will be a one-time cost of approximately \$320 as incurred for publication of the Notice of Intent and Final Rule in the *Louisiana Register* in FY 2001-02.

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

There will be no effect on revenue collections of state or local governmental units as a result of the proposed rule.

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

There are no costs and/or economic benefits that will directly affect persons or non-governmental groups as a result of the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipate effect on competition and employment as a result of the proposed rule.

Madeline W. Mcandrew
Assistant Secretary
0111#093

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of Public Health

Retail Food Establishments (LAC XXIII.Chapters 1-47)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health, pursuant to the authority in R.S. 40:5, proposes to repeal Chapter XXII, Chapter XXIII, and Chapter XXIII, A and promulgate Part XXIII of the Louisiana State Sanitary Code to be in accordance with current Food and Drug Administration, (FDA), Food Code guidelines and codified in accordance with the Administrative Procedure Act as follows:

Title 51

PUBLIC HEALTHCSANITARY CODE

Part XXIII. Retail Food Establishments

Chapter 1. Definitions

§101. Definitions [formerly paragraph 23:001]

A. Terms not defined or referenced herein shall have the meanings as defined in LAC 51:1. In any instance where a term defined herein is also defined in one or more Parts of LAC 51, the definition contained in this Part shall govern this Part.

"a" -water activity.

*Additive*Ca defined in Federal Food, Drug and Cosmetic Act 201(s), [21 U.S.C. 321(s)], any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food (including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any such use), if such substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures (or, in the case of a substance used in food prior to January 1, 1958, through either scientific procedures or experience based on common use in food) to be safe under the conditions of its intended use; except that such term does not include:

- a. a pesticide chemical in or on a raw agricultural commodity; or
- b. a pesticide chemical; or
- c. a color additive; or
- d. any substance used in accordance with a sanction or approval granted prior to the enactment of this paragraph pursuant to this Act, the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) or the Meat Inspection Act of March 4, 1907 (34 Stat. 1260), as amended and extended (21 U.S.C. 71 et seq.); or
- e. a new animal drug; or
- f. an ingredient described in paragraph (ff) of this Act in, or intended for use in, a dietary supplement;
- g. and defined in 21 CFR 170.3(e)(1)CFood additives include all substances not exempted by section 201(s) of this Act, the intended use of which results or may reasonably be expected to result, directly or indirectly, either in their becoming a component of food or otherwise affecting the characteristics of food. A material used in the

production of containers and packages is subject to the definition if it may reasonably be expected to become a component, or to affect the characteristics, directly or indirectly, of food packed in the container. "Affecting the characteristics of food" does not include such physical effects, as protecting contents of packages, preserving shape, and preventing moisture loss. If there is no migration of a packaging component from the package to the food, it does not become a component of the food and thus is not a food additive. A substance that does not become a component of food, but that is used, for example, in preparing an ingredient of the food to give a different flavor, texture, or other characteristic in the food, may be a food additive.

*Adulterated Food*Ca defined in §607 of the State Food, Drug, and Cosmetic Law (R.S. 40:601 et seq.), a food is considered adulterated if it has been found to be such by any department of the United States government, or:

- a. if it contains any poisonous or deleterious substances, added or otherwise, which may render it dangerous to health, or any added poisonous or deleterious substance which is prohibited by R.S. 40:611 or which is in excess of the limits of tolerance prescribed by regulations of the department;
- b. if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for food;
- c. if it has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth or whereby it may have been rendered injurious to health;
- d. if it is the product of a diseased animal or of an animal which has died otherwise than by slaughter;
- e. if its container is composed of any poisonous or deleterious substance which may render the contents injurious to health;
- f. if any valuable constituent has been in whole or in part abstracted therefrom;
- g. if any substance has been substituted wholly or in part therefore;
- h. if damage or inferiority has been concealed in any manner;
- i. any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, reduce its quality or strength, or create a deceptive appearance;
- j. if it contains a coal-tar color other than one from a batch that has been certified in accordance with regulations of the department;
- k. if it is confectionery or ice cream and contains any alcohol, resinous glaze, or non-nutritive substance except harmless coloring, harmless flavoring, natural gum, and pectin. However, this Paragraph does not apply to any confectionery or ice cream by reason of its containing less than one-half of one percent by volume of alcohol, derived solely from the use of flavoring extracts, or to any chewing gum by reason of its containing harmless non-nutritive masticatory substance.

*Approved Supplier*Ca producer, manufacturer, distributor or food establishment that is acceptable to the enforcement agency based on a determination of conformity with applicable laws, or, in the absence of applicable laws, with current public health principles and practices, and

generally recognized industry standards that protect public health.

Base of Operations/CommissaryCa catering establishment, restaurant, or any other properly equipped place in which food, containers, or supplies are kept, handled, prepared, packaged or stored.

Bed and Breakfast EstablishmentCa privately owned house where rooms are let and a breakfast is included in the rent. See Food Establishment.

BeverageCa liquid for drinking, including water.

Bulk FoodCrprocessed or unprocessed food in aggregate containers from which quantities desired by the consumer are withdrawn.

CIPCclean in place by the circulation or flowing by mechanical means through a piping system of a detergent solution, water rinse, and sanitizing solution onto or over equipment surfaces that require cleaning, such as the method used, in part, to clean and sanitize a frozen dessert machine.

Certification NumberCa unique combination of letters and numbers assigned by a shellfish control authority to a molluscan shellfish dealer according to the provisions of the National Shellfish Sanitation Program.

ComminutedCreduced in size by methods including chopping, flaking, grinding, or mincing and restructured or reformulated.

ConsumerCa "person" who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a "food" establishment or food processing plant and does not offer the "food" for resale.

Convenience StoreCa retail food store which is usually easily accessible and deals mostly with prepackaged food products.

Corrosion-Resistant MaterialCa material that maintains acceptable surface cleanability characteristics under prolonged influence of the "food" to be contacted, the normal use of cleaning compounds, and "sanitizing" solutions, and other conditions of the environment.

Critical Control PointCa defined in the 1999 Food Code published by FDA, a point or procedure in a specific "food" system where loss of control may result in an unacceptable health risk.

Critical ItemCa provision of this code that, if in noncompliance, is more likely than other violations to contribute to food contamination, illness, or environmental degradation, such as, but not limited to a potentially hazardous food stored at improper temperature, poor personal hygienic practices, not sanitizing equipment and utensils, no water, contaminated water sources, sewage backup, severe insect and rodent infestation, and chemical contamination.

Deli/DelicatessenCa food establishment which generally serves ready to eat food products such as sandwiches, cold cuts, cheeses, prepared salads and some prepared hot foods.

Drinking WaterCsee potable water.

Dry Storage AreaCa room or area designated for the storage of "packaged" or containerized bulk "food" that is not potentially hazardous and dry goods such as "single-service" items.

Easily CleanableCsurfaces that are readily accessible and made of such materials, finish and so fabricated that

residue may be effectively removed by normal cleaning methods.

EmployeeCthe permit holder, person in charge, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in a food establishment.

EquipmentCan article that is used in the operation of a food establishment and retail food store/market such as, but not limited to, a reach-in or walk-in refrigerator or freezer, grinder, ice maker, meat block, mixer, oven, scale, sink, slicer, stove, table, thermometers, vending machine, or warewashing machine.

Fairs and FestivalsCa gathering of persons for an event such as a bazaar, carnival, circus, public exhibition or other similar gathering for the purpose of celebration, competition, entertainment, distribution or sale of foods or goods, exhibition, religious activity, or other such purposes, which will operate for only a temporary period in any one location.

FoodCa raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.

Foodborne Disease OutbreakCthe occurrence of two or more cases of a similar illness resulting from the ingestion of a common food.

Food Contact SurfacesCa surface of equipment or a utensil with which food normally comes in contact with, or a surface of equipment or a utensil from which food may drain, drip or splash into a food or onto a surface normally in contact with food.

Food EstablishmentCan operation that stores, prepares, packages, serves, vends or otherwise provides food for human consumption. The term includes restaurants, cafeterias, caterers, delicatessens, bars, lounges, or any other facility that prepares food for individual service or for a group of people, whether consumption is on or off the premises and regardless if there is a charge for the food. The term does not include:

a. private homes where food is prepared or served for individual family consumption and a kitchen in a private home if only "food" that is not "potentially hazardous" is prepared for sale or service at a function such as a religious or charitable organization's bake sale if allowed by "law" and if the "consumer" is informed by a clearly visible placard at the sales or service location that the "food" is prepared in a kitchen that is not subject to regulation and inspection by the "regulatory authority";

b. a kitchen in a private home, such as a bed-and-breakfast operation that prepares and offers food to guests if the home is owner occupied, the number of available guest bedrooms does not exceed six, breakfast is the only meal offered, the number of guests served does not exceed 18, and the consumer is informed by statements contained in published advertisements, mailed brochures, and placards posted at the registration area that the food is prepared in a kitchen that is not regulated and inspected by the Office of Public Health.

Food Vendor/Food ConcessionaireCan person who handles food or drink during preparation or serving, or who comes in contact with any eating or drinking utensils, or who is employed at any time in a room in which food or drink is prepared or served in a temporary food service.

Game Animals—Can animal, the products of which are food, that is not classified by law as cattle, sheep, swine, goat, poultry, fish, and game birds or small animals as described in Chapter X of the Louisiana State Sanitary Code.

Garbage—the putrescible components of refuse which are subject to spoilage, rot, or decomposition. It includes wastes from the preparation and consumption of food, vegetable matter, and animal offal and carcasses.

HAACPC—Hazard Analysis Critical Control Point.

HACCP Plan—a written document that delineates the formal procedures for following the Hazard Analysis Critical Control Point principles developed by The National Advisory Committee of Microbiological Criteria for Foods.

Hermetically Sealed Container—a container that is designed and intended to be secure against the entry of microorganisms and, in the case of low acid canned foods, to maintain the commercial sterility of its contents after processing.

Highly Susceptible Population—a group of "persons" who are more likely than other populations to experience foodborne disease because they are immunocompromised, or for the purposes of this Part, older adults in a facility that provides health care or assisted living services, such as a hospital or nursing home; or preschool age children in a facility that provides custodial care, such as a day care center.

Hot Holding Temperature—food stored for hot holding and service shall be held at a temperature of 140°F (60°C) or higher with the exception of roast beef. If roast beef is cooked in accordance with §1305.A.7 the minimum hot holding temperature shall be 130°F (54°C).

Individual Food Operator/Responsible Person—the person responsible for operating the individual temporary food service.

Injected—manipulating a meat through tenderizing with deep penetration or injecting the meat such as with juices which may be referred to as "injecting," "pinning," or "stitch pumping."

Itinerant Food Establishment—any fixed or mobile food establishment which operates on a temporary or seasonal basis.

Itinerant Retail Food Store/Market—any fixed or mobile retail food store/market which operates on a temporary or seasonal basis.

Kiosk—a small structure used as a food and/or beverage booth.

Kitchenware—food preparation and storage utensils.

Label—the principal display or displays of written, printed, or graphic matter upon any food or the immediate container thereof, or upon the outside container or wrapper, if any, of the retail package of any food.

Labeling—includes all labels and other written, printed and graphic matter, in any form whatsoever, accompanying any food.

Linens—fabric items such as cloth hampers, cloth napkins, table cloths, wiping cloths, and work garments including cloth gloves.

Market—a retail food store or food market which stores, prepares, packages, serves, vends or otherwise provides food products such as beverages, eggs, meat, milk, produce, seafood or other similar products.

Microorganisms—yeasts, molds, fungi, bacteria, parasites and viruses including, but not limited to, species having public health significance. The term "undesirable microorganisms" includes those microorganisms that are of public health significance, that subject food to decomposition, that indicate that food is contaminated with filth, or that otherwise may cause food to be adulterated within the meaning of the Food, Drug and Cosmetic Laws and Regulations.

Mobile Food Establishment—a vehicle-mounted food establishment designed to be readily movable.

Mobile Retail Food Store/Market—a vehicle-mounted retail food store/market designed to be readily movable.

Multi-Service Articles—reusable articles for the service of foods made of smooth, impervious material and approved by the State Health Officer.

Noncritical Item—all provisions in this Part that are not classified as critical items.

Offal—waste parts, especially of a butchered animal, including but not limited to bones, cartilage, fatty tissue and gristle.

Open Air Market—a site that deals in produce that is normally peeled or washed prior to consumption, honey, jellies and syrups.

Organizer/Promoter/Chairman—that person responsible for managing a festival or fair. In the event of his/her unavailability, the assistant shall be deemed the responsible person.

"pH"—the symbol for the negative logarithm of the hydrogen ion concentration, which is a measure of the degree of acidity or alkalinity of a solution. Values between 0 and 7 indicate acidity and values between 7 and 14 alkalinity. The value for pure distilled water is 7, which is considered neutral.

PPM—parts per million, (mg/l) which is the metric equivalent.

Packaged—bottled, canned, cartoned, securely bagged, or securely wrapped.

Permit—the document issued by the "Department" that authorizes a "person" to operate a "food establishment" or "retail food store/market."

Permit Holder—the entity that:

a. is legally responsible for the operation of the establishment such as the owner, the owner's agent, or other "person;" and

b. possesses a valid "permit" to operate an establishment.

Person—an association, a corporation, individual, partnership, other legal entity, governmental subdivision or agency.

Person in Charge—the individual present at a food establishment or retail food store/market who is responsible for the operation at the time of inspection.

Personal Care Items—

a. items or substances that may be poisonous, toxic, or a source of contamination and are used to maintain or enhance a "person's" health, hygiene, or appearance;

b. includes items such as medicines; first aid supplies; and other items such as cosmetics, and toiletries such as toothpaste and mouthwash.

Pest—refers to any objectionable animal or insect including, but not limited to, birds, roaches, rodents, flies, and larvae.

Poisonous or Toxic Materials—substances that are not intended for ingestion including, but not limited to:

- a. cleaners and "sanitizers" which include cleaning and "sanitizing" agents and agents such as caustics, acids, drying agents, polishes, and other chemicals;
- b. pesticides, except "sanitizers," which include substances such as insecticides, rodenticides, herbicides;
- c. substances necessary for the operation and maintenance of the establishment such as nonfood grade lubricants and "personal care items" that may be deleterious to health.

Potable Water—water having bacteriological, physical, radiological and chemical qualities that make it safe and suitable for use by people for drinking, cooking or washing.

Potentially Hazardous Food

- a. food that is natural or synthetic and is in a form capable of supporting:
 - i. the rapid and progressive multiplication of infectious or toxigenic microorganisms;
 - ii. the multiplication and toxin production of *Clostridium botulinum*; or
 - iii. in shell eggs, the multiplication of *Salmonella enteritidis*.
- b. *potentially hazardous food* includes an animal food (a food of animal origin) that is raw or heat-treated; a food of plant origin that is heat-treated or consists of raw seed sprouts; cut melons; and garlic and oil mixtures.
- c. potentially hazardous food does not include:
 - i. an air-cooled hard-boiled-egg with shell intact;
 - ii. a food with a water activity (a_w) value of 0.85 or less;
 - iii. a food with a hydrogen ion concentration (pH) level of 4.6 or below when measured at 75°F (24°C);
 - iv. a food, in an unopened hermetically sealed container, that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution; or
 - v. a food for which a variance granted by the regulatory authority is based upon laboratory evidence demonstrating that rapid and progressive multiplication of infectious and toxigenic microorganisms or the slower multiplication of *C. botulinum* cannot occur.

Premises

- a. the physical facility, its contents, and the contiguous land or property under the control of the "permit holder"; or
- b. the physical facility, its contents, and the land or property not described under Subparagraph a of this definition if its facilities and contents are under the control of the "permit holder" and may impact establishment personnel, facilities, or operations, and an establishment is only one component of a larger operation such as a health care facility, hotel, motel, school, recreational camp, or prison.

Pushcart—a mobile food establishment or retail food store/market propelled by a person.

Ready-to-Eat-Food—food that is in a form that is edible without washing, cooking, or additional preparation by the

food establishment or the consumer and that is reasonably expected to be consumed in that form.

Recognized Louisiana Festival or Fair—those fairs or festivals that are officially acknowledged, in writing, as recognized by a state, parish, or municipal governmental body or by the Louisiana Association of Fairs and Festivals.

Reconstituted—dehydrated food products recombined with water or other liquids.

Reduced Oxygen Packaging—the reduction of the amount of oxygen in a package by mechanically evacuating the oxygen; displacing the oxygen with another gas or combination of gases; or otherwise controlling the oxygen content in a package to a level below that normally found in the surrounding atmosphere, which is 21 percent oxygen. This may include methods referred to as altered atmosphere, modified atmosphere, controlled atmosphere, low oxygen, and vacuum packaging including sous vide.

Refuse—any garbage, rubbish, sludge from a food establishment, retail food store/market, waste treatment plant, water supply treatment plant, or air pollution control facility. It also includes other discarded material such as solid, liquid, semi-solid, or contained gaseous material resulting from either industrial, commercial, mining, or agricultural operations, or from community activities. It does not include solid or dissolved material in domestic sewage, irrigation return flow, industrial discharges which are point sources, or radioactive wastes.

Regulatory Authority—the local, state or federal enforcement body or authorized representative having jurisdiction over the food establishment or retail food store/market.

Retail Food Manufacturer—an establishment in which food is manufactured or packaged for human consumption and is sold only at the site of manufacture, such as but not limited to bakery products and candy.

Retail Food Store/Market—all types of food markets including convenience, fixed, mobile and temporary food stores. These may also be referred to as groceries. Larger retail food stores may also include bakeries and delicatessens.

Rubbish—all non-putrescible waste matter, except ashes, from any public or private establishments, institution, or residence. It also includes construction and demolition wastes.

Safe Material—an article manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any "food."

Sanitization—the application of cumulative heat or chemicals on cleaned "food-contact surfaces" that, when evaluated for efficacy, is sufficient to yield a reduction of 5 logs, which is equal to a 99.999-percent reduction of representative disease microorganisms of public health importance.

Seafood—includes but is not limited to fish, shellfish, edible crustaceans, marine and freshwater animal food products.

Sealed—free of cracks or other openings that allow the entry or passage of moisture.

Seasonal—a recurrent period that is characterized by certain seasons of the year, occupations, festivities, or crops;

any period of time that is legally available to the hunter, fisherman, or trapper. These seasons are legally set by government regulatory agencies such as the State Department of Wildlife and Fisheries, State Department of Agriculture or other such agencies.

Single-Service Articles Ctableware, carry-out utensils, and other items such as bags, containers, cups, lids, closures, plates, knives, forks, spoons, paddles, napkins, placemats, stirrers, straws, toothpicks, and wrappers that are designed and constructed for one time, one person use and then discarded.

Single-Use Articles C utensils and bulk food containers designed and constructed to be used once and discarded. "Single-use articles" includes items such as wax paper, butcher paper, plastic wrap, formed aluminum food containers, jars, plastic tubs, or buckets, bread wrappers, pickle barrels, and number 10 cans.

Slacking C the process of moderating the temperature of a "food" such as allowing a "food" to gradually increase from a temperature of -23EC (-10EF) to -4EC (25EF) in preparation for deep-fat frying or to facilitate even heat penetration during the cooking of previously block-frozen "food" such as spinach.

Smoked Food C food which has been colored or flavored by natural or liquid smoke.

Substantial Renovation C

a. alterations or repairs made within a 12-month period, costing in excess of 50 percent of the then physical value of the existing building; or

b. alterations or repairs made within a 12-month period, costing in excess of \$15,000; or

c. alterations or repairs made within a 12-month period, involving a change in "occupancy classification" or use of the property;

d. the physical value of the building in Subparagraph a of this Paragraph may be established by an appraisal not more than three years old, provided that said appraisal was performed by a certified appraiser or by the tax assessor in the parish where the building is located;

e. the cost of alterations or repairs in Subparagraphs a or b of this Paragraph may be established by:

i. an estimate signed by a licensed architect or a licensed general contractor, or

ii. by copies of receipts for the actual costs.

Tableware C eating, drinking, and serving utensils for table use such as flatware including forks, knives and spoons; hollowware including bowls, cups, serving dishes, tumblers; and plates.

Temperature Measuring Device C a thermometer, thermocouple, thermistor, or other device that indicates the temperature of food, air, or water.

Temporary Food Establishment C a fixed or mobile food establishment that operates for a period of time of not more than 21 consecutive days in conjunction with a single event in a single location such as, but not limited to a festival or fair.

Temporary Retail Food Store/Market C a fixed or mobile food store/market which operates for a period of time no more than 21 consecutive days in conjunction with a single event in a single location such as, but not limited to a festival or fair.

Temporary Food Service C a "temporary food establishment" or "temporary retail food store/market."

Utensil C a food-contact implement or container used in the storage, preparation, transportation, dispensing, sale, or service of food, such as kitchenware or tableware that is multi-use, single-service, or single-use; gloves used in contact with food; and food temperature measuring devices.

Warewashing C the cleaning and sanitizing of food-contact surfaces of equipment and utensils.

Water Activity C (a_w) a measure of the free moisture in a food and is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature.

Wholesome C food which is in sound condition, clean, free from adulteration or contamination and is otherwise suitable for human consumption.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 3. General Requirements

§301. Effective Date of Title

A. The provisions of this Title shall have effect from the date of publication hereof as a rule in the *Louisiana Register*. Upgrading of such buildings and facilities shall be required when:

1. the construction of buildings and facilities was not previously approved by the state health officer pursuant to sanitary code requirements then in effect;

2. substantial renovation of, or additions to, such buildings or facilities is undertaken;

3. the real property ownership, or the occupancy classification of the business located therein changes subsequent to the effective date hereof;

4. the business ownership (occupant) changes subsequent to the effective date, except that the upgrading of restroom plumbing fixtures shall not be required where only the business ownership (occupant) changes if the construction of restroom plumbing fixtures was approved by the state health officer pursuant to sanitary code requirements then in effect; or

5. a serious health threat to the public health exists, unless otherwise specifically provided hereinafter.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§303. Interpretation [formerly paragraph 23:002]

A. This Part shall be interpreted and applied to promote its underlying purpose of protecting the public health.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§305. Food Safety Certification

[formerly paragraph 23:002-2]

A. The owner or a designated employee of each food establishment shall hold a "food safety certificate" from the department exclusively on behalf of that food establishment. The certificate shall be required to be renewed every five years.

B. Any food establishments with food sales of less than \$125,000 annually shall not be required to comply with this

Section until July 1, 2002. However, any establishment may apply for such certificate prior to such date. Those food establishments permitted after July 1, 2002 shall comply with this Section within 60 days of permit issuance.

C. To obtain a department food safety certificate, the following is required.

1. The individual must complete a course provided by an approved training program. The department shall approve all training programs and shall maintain a list of these training programs. These programs shall include, but are not limited to, the standards set forth in the ServSafe Program established by the Educational Foundation of the National Restaurant Association, or other programs recognized by the food service industry and the department.

a. Instructors/trainers shall meet the criteria established by the Educational Foundation of the National Restaurant Association or other instructor/trainer requirements established by the food service industry and the department.

b. The department shall approve training programs administered or approved by another state, political subdivision, or other jurisdiction with standards that meet or exceed those established in this code.

2. The individual must pass a written exam approved by the department before qualifying for the certificate. This test will meet the standards as described in Paragraph 1 above.

3. The individual must submit a completed application to the department with:

a. satisfactory evidence that he/she has completed an approved training program which includes passing a written examination; and

b. a \$25 fee for each certificate.

4. Upon receipt and approval of the documentation and fee described in Paragraph 3 above, the department shall then issue a food safety certificate to the applicant.

5. The permit holder shall display a current state food safety certificate in a location in the food establishment conspicuous to the public.

D. Certificates from the department shall be required to be renewed every five years for a \$25 fee. A person shall pass another written exam as described in Paragraph 2 above before the certificate is renewed.

E. No parish or municipality in Louisiana shall enforce any ordinance or regulation requiring a food establishment or any of its employees to complete a Food Safety training program or test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§307. Submission of Plans [formerly paragraph 23:003]

A. Whenever a food establishment or retail food store/market is constructed, substantially renovated, or a change of real property or business ownership occurs, or the occupancy classification changes, plans and specifications shall be submitted to the state health officer for review and approval. The plans and specifications must be approved before construction and renovation begins and shall indicate the proposed type of operation, anticipated volume and types of food products to be stored, prepared, packaged and/or served along with the proposed layout of the facility,

mechanical plans, construction materials and the types and location and specifications of all fixed and mobile equipment to be used in the establishment.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§309. Preoperational Inspection [formerly paragraph 23:004]

A. The state health officer may conduct one or more preoperational inspections to verify that the food establishment or retail food store/market is constructed and equipped in accordance with the approved plans and is in compliance with all provisions of this Title.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§311. Hazard Analysis Critical Control Point (HACCP) [formerly paragraph 22:02-4]

A. A food establishment or retail food store/market that packages food using a reduced oxygen packaging method shall have a Hazard Analysis Critical Control Point (HACCP) plan and provide the information required in §4121.

B. A HACCP plan shall contain:

1. a categorization of the types of Potentially Hazardous Foods that are specified in the menu such as soups and sauces, salads, and bulk, solid foods such as meat roasts, or of other foods that are specified by the department.

2. a flow diagram by specific food or category type identifying Critical Control Points and providing information on the following;

a. ingredients, materials, and equipment used in the preparation of that food; and

b. formulations or recipes that delineate methods and procedural control measures that address the food safety concerns involved;

3. a supervisory training plan that addresses the food safety issues of concern;

4. a statement of standard operating procedures for the plan under consideration including clearly identifying;

a. each critical control point;

b. the critical limits for each critical control point;

c. the method and frequency for monitoring and controlling each critical control point by the employee designated by the person in charge;

d. the method and frequency for the person in charge to routinely verify that the employee is following standard operating procedures and monitoring critical control points;

e. action to be taken by the person in charge if the critical limits for each critical control point are not met;

f. records to be maintained by the person in charge to demonstrate that the HACCP plan is properly operated and managed; and

5. additional scientific data or other information, as required by the department supporting the determination that food safety is not compromised by the proposal.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 5. Permits

§501. General

[formerly paragraph 23:125]

A. No person shall operate a food establishment or retail food store/market of any type without first having received a valid permit to operate from the state health officer. Permits are not transferable. A valid permit shall be posted in a location of the establishment conspicuous to the public.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§503. To Obtain a Permit from the State Health

Officer: [formerly paragraph 23:126-1, 23:126-2, 23:126-3]

A. The owner, president of the corporation, or other such officer duly delegated by the corporation or partnership shall make written application for a permit to operate and submit plans as described in §307 to the state health officer.

B. After plans and specifications have been reviewed and approved, the owner, president of the corporation, or other such officer shall request a preoperational inspection be made as described in §309 to determine compliance with all provisions of this Title.

C. A permit to operate shall be issued by the state health officer to the applicant if an inspection reveals that the proposed food establishment or retail food store/market and applicant has complied with all the provisions of this Title.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 7. Employee Health

§701. General

[formerly paragraph 23:031]

A. All employees shall meet the requirements of Part I, §117.A, B, Employee Health and Chapter 2, The Control of Diseases, of this Title. The employee shall report information to the person in charge about their health and activities as they relate to infectious diseases that are transmissible through food. The person in charge shall be responsible for complying with Part I, §117 and excluding the employee from the food establishment to prevent the likelihood of foodborne disease transmission.

B. All employees shall report to the person in charge any symptom caused by illness, infection, or other source that is:

1. associated with an acute gastrointestinal illness such as diarrhea, fever, vomiting, jaundice or sore throat with fever; or

2. a lesion containing pus such as a boil or infected wound that is open or draining and is:

a. on the hands or wrist, unless an impermeable cover such as a finger cot, or stall protects the lesion and a single-use glove is worn over the impermeable cover;

b. on exposed portions of the arms, unless the lesion is protected by an impermeable cover; or

c. on other parts of the body, unless the lesion is covered by a dry, durable, tight-fitting bandage.

C. The person in charge shall restrict employees from working with exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles, in a food establishment or retail food store/market if the

employee is suffering a symptom specified in Subsection B of this Section.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 9. Personal Cleanliness and Hygienic Practices

§901. Handwashing

[formerly paragraph 23:032]

A. Employees shall thoroughly wash their hands and exposed portions of their arms with soap and warm water before starting work, before applying gloves, during work as often as necessary to keep them clean, and after smoking, using tobacco, eating, drinking, coughing, sneezing, handling raw food, using the toilet.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§903. Fingernails

[formerly paragraph 22:06-2]

A. Employees shall keep their fingernails clean and trimmed not to exceed the end of the fingertip. An employee shall not wear nail polish or artificial fingernails when working with exposed food.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§905. Jewelry

[formerly paragraph 22:06-3]

A. Employees may not wear jewelry on their arms and hands while preparing food. This does not apply to a plain ring such as a wedding band.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§907. Outer Clothing

[formerly paragraph 22:06-4]

A. Employees shall wear clean outer clothing.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§909. Hand Sanitizers

A. Employees may apply hand sanitizers only to hands that are cleaned as specified in §901. Hand sanitizers shall comply with all state and federal regulations and be used in accordance with label directions.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§911. Eating and Drinking

[formerly paragraph 23:034-1]

A. Employees shall eat and drink only in designated areas where the contamination of exposed food, equipment, utensils or other items needing protection cannot result. An employee may drink while preparing food from a closed beverage container if the container is handled properly to prevent contamination.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§913. Using Tobacco

[formerly paragraph 23:034-2]

A. Employees shall not use tobacco in any form while preparing or serving food. Employees shall use tobacco only in designated areas such as described in §4105.C.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§915. Hair Restraints

[formerly paragraph 23:033-2]

A. Employees shall wear hair restraints such as hats, hair coverings or nets, beard restraints, and clothing that covers body hair, that are designed and worn to effectively keep their hair from contacting exposed food, equipment, utensils and other items needing protection. This does not apply to employees such as counter staff who only serve beverages and wrapped or packaged food items if they present a minimal risk of contaminating exposed food, clean equipment, utensils, and linens, and unwrapped single service and single use articles.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§917. Food Contamination

[formerly paragraph 22:07-4]

A. Employees experiencing persistent sneezing, coughing or a runny nose may not work with exposed food, equipment, utensils or other items needing protection.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§919. Handling

[formerly paragraph 22:07-5]

A. Employees shall handle soiled tableware in a manner to prevent the contamination of clean tableware by their hands. Employees may not care for or handle animals allowed under §4101.B of this Part while preparing or serving food, except employees may handle or care for fish in aquariums, or molluscan shellfish, or crustacea in display tanks or storage when they wash their hands as specified under §901 of this Part.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 11. Food Supplies

§1101. General

[formerly paragraph 22:08-1]

A. All food shall be safe, unadulterated and honestly presented.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1103. Source

[formerly paragraph 22:08-2]

A. Food shall be obtained from sources that comply with law. Food prepared in a private home may not be used or offered for human consumption in any food establishment or retail food store/market. This section shall not apply to any jellies, preserves, jams, honey and honeycomb products prepared in private homes, when the gross annual sales are less than \$5000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:4.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1105. Package

[formerly paragraph 22:08-3]

A. Food packages shall be in a good condition and protect the integrity of the contents so that the food is not exposed to adulteration or potential contaminants.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1107. Labeling

[formerly paragraph 22:08-4]

A. Packaged food shall be labeled as specified by law. All bulk food storage containers shall be properly labeled according to law.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1109. Raw Shellfish Consumer Information Message

[formerly paragraph 22:08-5.1]

A. All establishments that sell or serve raw oysters must display signs, menu notices, table tents, or other clearly visible messages at point of sale with the following wording: **Ⓐ THERE MAY BE A RISK ASSOCIATED WITH CONSUMING RAW SHELLFISH AS IS THE CASE WITH OTHER RAW PROTEIN PRODUCTS. IF YOU SUFFER FROM CHRONIC ILLNESS OF THE LIVER, STOMACH OR BLOOD OR HAVE OTHER IMMUNE DISORDERS, YOU SHOULD EAT THESE PRODUCTS FULLY COOKED.Ⓑ** In addition, this message must appear on the principal display panel or top of containers of pre-packaged raw oysters. This may be done by printing on the container or by pressure sensitive labels. In addition, the following message must appear on the tag of each sack or other container of unshucked raw oysters: **"THERE MAY BE A RISK ASSOCIATED WITH CONSUMING RAW SHELLFISH AS IS THE CASE WITH OTHER RAW PROTEIN PRODUCTS. IF YOU SUFFER FROM CHRONIC ILLNESS OF THE LIVER, STOMACH OR BLOOD OR HAVE OTHER IMMUNE DISORDERS, YOU SHOULD EAT THESE PRODUCTS FULLY COOKED.Ⓐ"**

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1111. Exemption to Raw Shellfish Consumer Information Message

[formerly paragraph 22:08-5.2]

A. Food establishments that exclusively serve raw molluscan shellfish that have been subjected to a process recognized by the state health officer as being effective in reducing the bacteria *Vibrio vulnificus* to non-detectable

levels may apply for an exemption from the mandatory consumer information notification requirement. Food establishments interested in obtaining an exemption shall certify in writing to the state health officer that it shall use exclusively for raw consumption only molluscan shellfish that have been subjected to the approved process. Upon receipt and verification of that communication, the state health officer may confirm the establishment as being exempt from the requirement of displaying the consumer information message. The food establishment's certification must be sent to the state health officer at the following address:

Louisiana Office of Public Health
P.O. Box 629
Baton Rouge, LA 70821-0629

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1113. Hermetically Sealed Containers
[formerly paragraph 22:08-6]

A. Food in hermetically sealed containers shall be obtained from a licensed and/or regulated food processing plant.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1115. Milk

[formerly paragraph 22:08-7]

A. Fluid, frozen, dry milk and milk products shall be obtained from sources with Grade A Standards as specified in law and Chapter VII and Chapter VIII of this Title.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1117. Seafood

[formerly paragraph 22:08-8]

A. Fish, shellfish, edible crustaceans, marine and fresh water animal food products shall be obtained from sources according to law and Chapter IX of this Title. Shellstock tags shall be retained by the food establishment or retail food store/market for 90 days after service or sale to the consumer.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1119. Eggs

[formerly paragraph 22:08-9]

A. Shell eggs shall be received clean and sound according to law.

B. Liquid, frozen and dry egg products shall be obtained pasteurized.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1121. Poultry and Meats

[formerly paragraph 22:08-10]

A. Poultry and meat products shall be obtained from sources according to law.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1123. Game Animals

[formerly paragraph 22:08-11]

A. Game animals may be received for sale if they are under a routine inspection program conducted by a regulatory authority or raised, slaughtered, and processed under a voluntary inspection program by a regulatory authority.

B. If retail food markets are requested by an individual to process wild deer meat, they must process this meat in accordance with the guidelines established by the department.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 13. Temperature

§1301. Temperature Control

[formerly paragraph 22:09-1]

A. Except as specified in §1303, all refrigerated potentially hazardous foods shall be received at a temperature of 41EF (5EC) or below.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1303. Exceptions

[formerly paragraph 22:09-2]

A. Shell eggs, milk and molluscan shellstock may be received at a temperature not to exceed 45EF (7.2EC) as specified by law.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1305. Cooking/Reheating

[formerly paragraph 22:09-3]

A. Foods shall be cooked to heat all parts of the food to a temperature and for a time that are at least:

1. 165EF (74EC) or above for 15 seconds for wild game, poultry, stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, stuffed ratites or stuffing containing fish, meat or poultry;

2. 155EF (68EC) or above for 15 seconds for comminuted fish, comminuted meats, injected meats, ratites and raw pooled eggs;

3. 165EF (74EC) or above when foods are cooked or reheated in microwave ovens and the food shall be rotated and stirred throughout to compensate for uneven distribution of heat;

4. 145EF (63EC) or above for 15 seconds for pork and all other foods;

5. 165EF (74EC) or above for 15 seconds in all parts of the food when reheating all potentially hazardous food that is cooked, cooled, and reheated for hot holding or serving;

6. 130EF (54EC) minimum internal temperature for beef roasts or to a temperature and time that will cook all parts of the roast as required by law;

a. in an oven that is preheated to the temperature specified for the roast's weight in the following chart and that is held at that temperature; and

Oven Type	Oven Temperature Based on Roast Weight	
	Less than 4.5 kg (10 lbs.)	4.5 kg (10 lbs.) or more
Still Dry	350EF (177EC) or more	250EF (121EC) or more
Convection	325EF (163EC) or more	250EF (121EC) or more
High Humidity ¹	250EF (121EC) or less	250EF (121EC) or less

¹Relative humidity greater than 90 percent for at least 1 hour as measured in the cooking chamber or exit of the oven; or in a moisture-impermeable bag that provides 100 percent humidity.

b. as specified in the following chart, to heat all parts of the food to a temperature and for the holding time that corresponds to that temperature;

Temperature	Time in Minute	Temperature	Time in Minutes	Temperature	Time in Minutes
130EF (54EC)	121	136EF (58EC)	32	142EF (61EC)	8
132EF (56EC)	77	138EF (59EC)	19	144EF (62EC)	5
134EF (57EC)	47	140EF (60EC)	12	145EF (63EC)	3

Holding time may include post-oven heat rise.

7. 140EF (60EC) or above for 15 seconds for raw vegetables and fruit.

B. Exceptions:

1. raw or undercooked whole muscle, intact beef steak to be served or offered for sale in a ready to eat form shall be cooked to 145EF (63EC) or above surface temperature on both the top and bottom and until a cooked color change is achieved on all external surfaces; and

2. all food shall be served in accordance with this section unless otherwise ordered by the consumer for immediate service, such as but not limited to raw, marinated fish, raw molluscan shellfish, steak tartare, or partially or lightly cooked food, if the food establishment serves a population that is not a highly susceptible population.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1307. Hot Holding Temperatures

[formerly paragraph 22:09-4]

A. Food stored for hot holding and service shall be held at a temperature of 140EF (60EC) or higher with the exception of roast beef. If roast beef is cooked in accordance with §1305(A)(6) the minimum hot holding temperature shall be 130EF (54EC).

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1309. Cold Holding Temperatures

[formerly paragraph 22:09-5]

A. Food stored for cold holding and service shall be held at a temperature of 41EF (5EC) or below.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1311. Cooling

[formerly paragraph 22:09-6]

A. Cooling of food shall be accomplished by using one or more of the following methods:

1. placing the food in shallow pans;
2. separating the food into smaller or thinner portions;
3. using rapid cooling equipment;
4. stirring the food in a container placed in an ice water bath;
5. using containers that facilitate heat transfer;
6. adding ice as an ingredient;
7. other approved effective methods.

B. Cooked potentially hazardous food shall be cooled:

1. to 70EF (21EC) within two hours of cooking or hot holding; and
2. to 41EF (5EC) from 70 EF (21EC) within four hours or less.

C. Potentially hazardous food, if prepared from ingredients at ambient temperature, shall be cooled to 41EF (5EC) within four hours following preparation.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1313. Frozen Food

[formerly paragraph 22:09-7]

A. Stored frozen food should be stored at a temperature of 0EF (-17.8EC) or below and shall be maintained frozen.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1315. Thawing

[formerly paragraph 22:09-8]

A. Potentially hazardous food shall be thawed by one of the following methods:

1. under refrigeration that maintains the food temperature at 41EF (5EC) or below;
2. completely submerged under potable running water at a temperature of 70EF (21EC) or below with sufficient water velocity to agitate and float off loose particles in an overflow;
3. for a period of time that does not allow thawed portions to rise above 41EF (5EC);
4. as part of the conventional cooking process or thawed in a microwave oven and immediately transferred to conventional cooking equipment with no interruption in the cooking process.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1317. Time as a Public Health Control

[formerly paragraph 22:09-9]

A. Time only, rather than time in conjunction with temperature, may be used as a public health control for a working supply of potentially hazardous food before cooking, or for ready-to-eat potentially hazardous food before cooking, or for ready-to-eat potentially hazardous food that is displayed or held for service for immediate consumption if:

1. the food is marked or otherwise identified with the time within which it shall be cooked, served or discarded;

2. the food is served or discarded within four hours from the point in time when the food is removed from temperature control;

3. food in unmarked containers or packages, or for which the time expires, is discarded; and

4. written procedures are maintained in the food establishment or retail food store/market and are available to the department upon request.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1319. Parasite Destruction by Freezing

A. Except as specified in Subsection B of this section, before service or sale in ready-to-eat form, raw, raw-marinated, partially cooked, or marinated-partially cooked fish other than molluscan shellfish shall be frozen throughout to a temperature of:

1. -4EF (-20EC) or below for 168 hours (7 days) in a freezer; or

2. -31EF (-35EC) or below for 15 hours in a blast freezer.

B. If the fish are tuna of the species *Thunnus alalunga*, *Thunnus albacares* (Yellowfin tuna), *Thunnus atlanticus*, *Thunnus maccoyii* (Bluefin tuna, Southern), *Thunnus obesus* (Bigeye tuna), or *Thunnus thynnus* (Bluefin tuna, Northern), the fish may be served or sold in a raw, raw-marinated, or partially cooked ready-to-eat form without freezing as specified under Subsection A of this Section.

C. Except as specified in Subsection B of this Section, if raw, raw-marinated, partially cooked, or marinated-partially cooked fish are served or sold in ready-to-eat form, the person in charge shall record the freezing temperature and time to which the fish are subjected and shall retain the records at the food establishment or retail food store/market for 90 calendar days beyond the time of service or sale of the fish.

D. If the fish are frozen by a supplier, a written agreement or statement from the supplier stipulating that the fish supplied are frozen to a temperature and for a time specified under §1319 may substitute for the records specified under Subsection C of this Section.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1321. Temperature Measuring Devices (Thermometers) [formerly paragraph 22:09-10]

A. Temperature measuring devices shall be provided and used to measure:

1. food temperatures of potentially hazardous food on a device scaled in Fahrenheit (F) accurate to a plus or minus 2EF or Celsius (C) accurate to a plus or minus 1EC and should be able to measure the internal temperature of food products that are less than 1/2 inch thick,

2. ambient air temperature of all equipment used to hold potentially hazardous food on a device scaled in Fahrenheit accurate to a plus or minus 3EF or Celsius accurate to a plus or minus 1.5EC.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 15. Food Storage

§1501. Protected

[formerly paragraph 22:10-1]

A. Food shall be protected from contamination by storing the food:

1. in a clean, dry location;

2. where it is not exposed to splash, dust, or other contamination;

3. at least six inches (15 cm) above the floor except:

i. metal pressurized beverage containers and cased food packages in cans, glass or other waterproof containers need not be elevated when the food container is not exposed to floor moisture.

ii. containerized food may be stored on dollies, racks or pallets, provided such equipment is readily movable.

4. so that it is arranged so that cross contamination of raw animal foods of one type with another, or ready to eat foods is prevented.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1503. Storage

[formerly paragraph 22:10-2]

A. Food may not be stored:

1. in locker rooms;

2. in toilet rooms;

3. in dressing rooms;

4. in garbage rooms;

5. in mechanical rooms;

6. under sewer pipes;

7. under water pipes that are not adequately shielded to intercept potential drips;

8. under open stairwells;

9. in vehicles used to transfer or hold any type of waste; or

10. under other sources of contamination.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1505. Packaged Food

[formerly paragraph 22:10-3]

A. Packaged food may not be stored in direct contact with ice or water if the food is subject to the entry of water through the packaging, wrapping, or container because of its positioning in the ice or water. Unpackaged food may only be stored in direct contact with drained ice; except

1. whole, raw fruits or vegetables; cut, raw vegetables such as celery or carrot sticks or cut potatoes; and tofu may be immersed in ice or water;

2. raw chicken and raw fish that are received immersed in ice in shipping containers may remain in that condition while in storage awaiting preparation, display, service or sale.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1507. Date Marking

A. Ready-to-eat, potentially hazardous foods prepared on premise and held under refrigeration for more than 24 hours shall be clearly marked at the time of preparation to indicate the date by which the food shall be consumed, which is, including the day of preparation, seven calendar days.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 17. Food Preparation

§1701. General

[formerly paragraph 22:11-1]

A. During preparation, unpackaged food shall be protected from environmental sources of contamination. Raw fruits and vegetables shall be thoroughly washed in water to remove soil and other contaminants before being cut, combined with other ingredients, cooked, served or offered for human consumption in ready to eat form.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1703. Hand Contact

[formerly paragraph 23:012]

A. Food shall be prepared with the least possible manual contact, with suitable utensils, and on surfaces that have been cleaned, rinsed, and sanitized prior to use to prevent cross-contamination.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1705. Cross Contamination

[formerly paragraph 22:11-3]

A. Cross contamination shall be prevented by separating:

1. raw animal foods from ready to eat foods, including but not limited to, placing, storing, or displaying ready to eat food above raw animal food;
2. raw unprepared vegetables from ready to eat potentially hazardous foods; or
3. certain raw animal foods from each other because of different cooking temperatures except when combining as ingredients.

B. Cross contamination shall be prevented by properly washing, rinsing and sanitizing cutting boards, food preparation surfaces and other food contact surfaces following contact with raw animal foods or raw vegetables and before contact with ready to eat food.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1707. Reconstituted Dry Milk and Dry Milk Products

[formerly paragraph 23:015]

A. Reconstituted dry milk and dry milk products meeting the requirement of Chapter VII of this Title may only be used in instant desserts and whipped products, or for cooking and baking purposes.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1709. Molluscan Shellfish

[formerly paragraph 22:11-2]

A. Raw shellfish shall be handled in accordance with Chapter IX of this Title except a HACCP plan is not required and raw shellfish may not be prepackaged by food establishments and retail food stores/markets.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 19. Food Display and Service

§1901. General [formerly paragraph 22:12-1]

A. Food on display shall be protected from contamination by the use of packaging, counter service line or food/sneeze guards, display cases, or other effective means except for nuts in the shell and whole, raw fruits and vegetables that are intended for hulling, peeling or washing by the consumer before consumption.

B. Proper utensils shall be used for preparation, service and dispensing of food. These utensils shall be stored in accordance with §2519 of this Part.

C. Self service consumers shall not be allowed to use soiled tableware, including single service articles, to obtain additional food from the display and serving equipment. Tableware, including single service articles, shall be made available at the serving display. A sign shall be posted at the serving display prohibiting the reuse of soiled tableware.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1903. Bulk Foods

[formerly paragraph 22:12-2]

A. Bulk foods shall be handled and dispensed in a manner described in §1901.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1905. Condiments

[formerly paragraph 22:12-3]

A. Condiments shall be protected from contamination by being kept in dispensers that are designed to provide protection, protected food displays provided with the proper utensils, original containers designed for dispensing, or individual packages or portions.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1907. Ice

[formerly paragraph 22:12-4]

A. Ice for consumer use shall be dispensed only by employees with scoops, tongs, or other ice-self-dispensing utensils or through automatic service ice-dispensing equipment. Ice-dispensing utensils shall be stored in accordance with §2519.

B. Ice used as a medium for cooling food such as melons or fish, packaged foods such as canned beverages, or cooling coils and tubes of equipment, shall not be used as food.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1909. Reservice

[formerly paragraph 22:12-5]

A. Once served to a consumer, portions of left-over food shall not be reserved, except:

- 1. food that is not potentially hazardous, such as crackers and condiments, in an unopened original package and maintained in sound condition may be reserved or resold;
- 2. food that is dispensed so that it is protected from contamination and the container is closed between uses, such as a narrow-neck bottle containing catsup, steak sauce, or wine.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1911. Special Requirements for Highly Susceptible Populations

A. In a food establishment that serves a highly susceptible population:

- 1. prepackaged juice or a prepackaged beverage containing juice must be pasteurized;
- 2. pasteurized shell eggs or pasteurized liquid, frozen, or dry eggs shall be substituted for raw shell eggs in the preparation of:

- a. foods such as Caesar salad, hollandaise or Bearnaise sauce, mayonnaise, egg nog, ice cream, and egg-fortified beverages, and

- b. recipes in which more than one egg is broken and the eggs are combined except:

- i. when combined immediately before cooking for one consumer's serving at a single meal, cooked to 145EF for 15 seconds and served immediately, such as an omelet, souffle, or scrambled eggs;

- ii. when combined as an ingredient immediately before baking and the eggs are thoroughly cooked to a ready-to-eat form, such as a cake, muffin, or bread.

3. Food in an unopened original package may not be re-served.

4. The following foods may not be served or offered for sale in a ready to eat form:

- a. raw animal foods such as raw fish, raw-marinated fish, raw molluscan shellfish, and steak tartare;

- b. a partially cooked animal food such as lightly cooked fish, rare meat, soft cooked eggs that are made from raw shell eggs, and meringue; and

- c. raw seed sprouts.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 21. Equipment and Utensils

§2101. General

[formerly paragraph 22:13]

A. All equipment and utensils shall be of construction approved by the state health officer.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2103. Multi-Use

[formerly paragraph 22:13-1]

A. Materials that are used in the construction of utensils and food contact surfaces of equipment may not allow the migration of deleterious substances or impart colors, odors, or tastes to food and under normal use conditions shall be:

- 1. safe;
- 2. durable, corrosion-resistant, and non absorbent;
- 3. sufficient in weight and thickness to withstand repeated warewashing;
- 4. finished to have a smooth, easily cleanable surface; and
- 5. resistant to pitting, chipping, grazing, scratching, scoring, distortion, and decomposition.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2105. Copper

[formerly paragraph 22:13-2]

A. Copper and copper alloys such as brass may not be used in contact with a food that has a pH below 6 such as vinegar, fruit juice, or wine.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2107. Galvanized Metal

[formerly paragraph 22:13-3]

A. Galvanized metal may not be used for utensils or food-contact surfaces or equipment that are used for acidic food.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2109. Lead

[formerly paragraph 22:13-4]:

A. Lead in Ceramic, China, and Crystal Utensils CUse Limitation

1. Ceramic, china, crystal utensils, and decorative utensils such as hand painted ceramic or china that are used in contact with food shall be lead-free or contain levels of lead not exceeding the limits of the following utensil categories:

Utensil Category	Description	Maximum Lead mg/L
Hot Beverage Mugs	Coffee Mugs	0.5
Large Hollowware	Bowls \$ 1.1L (1.16 qt)	1
Small Hollowware	Bowls < 1.1L (1.16 qt)	2.0
Flat Utensils	Plates, Saucers	3.0

B. Lead in Pewter Alloys CUse Limitation

1. Pewter alloys containing lead in excess of 0.05 percent may not be used as a "food-contact surface."

C. Lead in Solder and Flux CUse Limitation.

1. Solder and flux containing lead in excess of 0.2 percent may not be used as a food-contact surface.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2111. Wood

[formerly paragraph 22:13-5]

A. Wood and wood wicker may not be used as a food-contact surface except as follows.

1. Hard maple or an equivalently hard, close-grained wood may be used for:

a. cutting boards, cutting blocks, baker's tables; and utensils, such as rolling pins, doughnut dowels, salad bowls, and chopsticks; and

b. wooden paddles used in confectionery operations for pressure scraping kettles when manually preparing confections at a temperature of 230EF (110EC) or above.

2. Whole, uncut, raw fruits and vegetables, and nuts in the shell may be kept in the wood shipping containers in which they were received, until the fruits, vegetables, or nuts are used.

3. If the nature of the food requires removal of rinds, peels, husks, or shells before consumption, the whole, uncut, raw food may be kept in untreated wood containers or approved treated wood containers complying with the Code of Federal Regulations (CFR).

4. "Cedar-Plank" or "Shingles" may be used as a single-service article if;

a. the food establishment has certified that the "cedar-plank" has not been chemically treated and is in its natural state;

b. the side of the "plank" which will come in contact with the fish must be planed and sanded to a smooth finish.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2113. Non-Food Contact Surfaces

[formerly paragraph 22:14]

A. Surfaces of equipment that are exposed to splash, spillage, or other food soiling or that require frequent cleaning shall be constructed of a corrosion-resistant, non absorbent, and smooth material.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2115. Single-Service and Single-Use Articles

[formerly paragraph 22:15]

A. Single-service and single-use articles may not be reused.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2117. Gloves, Use Limitations

[formerly paragraph 22:16]

A. If used, single use gloves shall be used for only one task such as working with ready-to-eat food or with raw animal food, used for no other purpose, and discarded when damaged or soiled, or when interruptions occur in the operation.

B. Except as specified in Subsection C of this Section, slash-resistant gloves that are used to protect the hands

during operations requiring cutting shall be used in direct contact only with food that is subsequently cooked as specified under §1305 of this part such as frozen food or a primal cut of meat.

C. Slash-resistant gloves may be used with ready-to-eat food that will not be subsequently cooked if the slash-resistant gloves have a smooth, durable, and nonabsorbent outer surface; or if the slash-resistant gloves are covered with a smooth, durable, nonabsorbent glove or a single-use glove.

D. Cloth gloves may not be used in direct contact with food unless the food is subsequently cooked as required under §1305 of this Part such as frozen food or a primal cut of meat.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2119. Food Temperature Measuring Devices

[formerly paragraph 22:17]

A. Food temperature measuring devices may not have sensors or stems constructed of glass, except that thermometers with glass sensors or stems that are encased in a shatterproof coating such as candy thermometers may be used.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 23. Requirements for Equipment

§2301. General

[formerly paragraph 22:18-1]

A. Equipment used for cooling, heating and holding cold and hot foods, shall be sufficient in number and capacity to provide food temperatures as specified in this Part.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2303. Manual Warewashing, Sink Compartment

Requirements [formerly paragraph 22:18-2]

A. A sink with at least three compartments shall be provided for manual washing, rinsing and sanitizing equipment and utensils, except:

1. where an approved alternative process is used as specified in Subsection C of this section; or

2. where there are no utensils or equipment to wash, rinse and sanitize as in a facility with only prepackaged foods.

B. Sink compartments shall be large enough to accommodate immersion of the largest equipment and utensils.

C. When equipment or utensils are too large for the warewashing sink or warewashing machine, the following alternative process may include:

1. high-pressure detergent sprayers;

2. low or line-pressure spray detergent foamers;

3. other task specific cleansing equipment, such as CIP;

4. brushes or other implements.

D. Drainboards, utensil racks, or tables large enough to accommodate all soiled and cleaned items that may accumulate during hours of operation shall be provided for

necessary utensil holding before cleaning and after sanitizing. Drainboards for sinks and machines shall be self-draining.

E. A warewashing sink may not be used for handwashing or dumping mop water. Sinks may be used to wash wiping cloths, wash produce and other foods or thaw foods if the sinks are properly washed and sanitized before this use.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2305. Warewashing Machines

[formerly paragraph 22:18-3]

A. When provided, a warewashing machine shall have an easily accessible and readable data plate affixed to the machine by the manufacturer that indicates the machine's design and operating specifications including the:

1. temperatures required for washing, rinsing and sanitizing;
2. pressure required for the fresh water sanitizing rinse unless the machine is designed to use only a pumped sanitizing rinse; and
3. conveyor speed for conveyor machines or cycle time for stationary rack machines.

B. Warewashing machine wash and rinse tanks shall be equipped with baffles, curtains, or other means to minimize internal cross contamination of the solutions in wash and rinse tanks.

C. Warewashing machines shall be equipped with a temperature measuring device that indicates the temperature of the water:

1. in each wash and rinse tank; and
2. as the water enters the hot water sanitizing final rinse manifold or in the chemical sanitizing solution tank.

D. Warewashing machines that provide a fresh hot water sanitizing rinse shall be equipped with a pressure gauge or similar device such as a transducer that measures and displays the water pressure in the supply line immediately before entering the warewashing machine.

E. Warewashing machines shall be operated in accordance with the machine's data plate and other manufacturer's specifications.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 25. Cleaning of Equipment and Utensils

§2501. General

[formerly paragraph 22:19-1]

A. Equipment food-contact surfaces and utensils shall be clean to sight and touch.

B. The food-contact surfaces of cooking equipment and pans shall be kept free of encrusted grease deposits and other accumulations.

C. Nonfood-contact surfaces of equipment shall be kept free of an accumulation of dust, dirt, food residue, and other debris.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2503. Frequency of Cleaning

[formerly paragraph 22:19-2]

A. Equipment food contact surfaces and utensils shall be cleaned:

1. before each use with a different type of raw animal food such as beef, seafood, lamb, pork, or poultry;
2. each time there is a change from working with raw foods to working with ready to eat foods;
3. between uses with raw fruits or vegetables and with potentially hazardous food;
4. before using or storing a temperature measuring device;
5. at any time during the operation when contamination may have occurred.

B. Equipment food-contact surfaces and utensils used with potentially hazardous food shall be cleaned throughout the day at least every four hours.

C. Nonfood-contact surfaces of equipment shall be cleaned at a frequency necessary to preclude accumulation of soil residues.

E. Warewashing equipment, including machines and the compartments of sinks, basins or other receptacles used for washing and rinsing equipment, utensils, or raw foods, or laundering wiping cloths; and drainboards or other equipment used to substitute for drainboards, shall be cleaned:

1. before use;
2. throughout the day at a frequency necessary to prevent recontamination of equipment and utensils and to ensure that the equipment performs its intended function; and
3. if used, at least every 24 hours.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2505. Cleaning Agents

[formerly paragraph 22:19-3]

A. The wash compartment of a sink, mechanical warewasher, or other alternative process as specified in §2303.C of this Part, when used for warewashing, shall contain a wash solution of soap, detergent, acid cleaner, alkaline cleanser, degreaser, abrasive cleaner, or other cleaning agent according to the cleaning agent manufacturer's label instruction.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2507. Temperature of Wash Solution

[formerly paragraph 22:19-4]

A. The temperature of the wash solution in manual warewashing equipment shall be maintained at not less than 110EF (43EC) unless a different temperature is specified on the cleaning agent manufacturer's label instruction.

B. The temperature of the wash solution in spray type warewashers that use hot water to sanitize may not be less than:

1. for a single tank, stationary rack, single temperature machine, 165EF (74EC);
2. for a single tank, conveyor, dual temperature machine, 160EF (71EC);

3. for a single tank, stationary rack, dual temperature machine, 150EF (66EC);

4. for a multitank, conveyor, multitemperature machine, 150EF (66EC).

C. The temperature of the wash solution in spray type warewashers that use chemicals to sanitize may not be less than 120EF (49EC).

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2509. Methods of Cleaning

[formerly paragraph 22:19-5]

A. Precleaning

1. Food debris on equipment and utensils shall be scrapped over a waste disposal unit, scupper, or garbage receptacle or shall be removed in a warewashing machine with a prewash cycle.

2. If necessary for effective cleaning, utensils and equipment shall be pre-flushed, pre-soaked, or scrubbed with abrasives.

B. Loading. Soiled items to be cleaned in a warewashing machine shall be loaded into racks, trays, or baskets or onto conveyors in a position that:

1. exposes the items to the unobstructed spray from all cycles and;

2. allows the items to drain.

C. Wet Cleaning

1. Equipment food-contact surfaces and utensils shall be effectively washed to remove or completely loosen soils by using the manual or mechanical means necessary such as the application of detergents containing wetting agents and emulsifiers; acid, alkaline, or abrasive cleaners; hot water; brushes; scouring pads; high-pressure sprays; or ultrasonic devices.

2. The washing procedures selected shall be based on the type and purpose of equipment or utensil, and on the type of soil to be removed.

3. Equipment shall be disassembled as necessary to allow access of the detergent solution to all parts.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2511. Rinsing Procedures

[formerly paragraph 22:19-6]

A. Washed utensils and equipment shall be rinsed so that abrasives are removed and cleaning chemicals are removed or diluted through the use of water or other solutions. A distinct, separate water rinse after washing and before sanitizing shall be used with:

1. a three compartment sink;

2. an alternative manual warewashing equipment equivalent to a three compartment sink as specified in §2303.C of this Part;

3. a three-step washing, rinsing and sanitizing procedure in a warewashing system for CIP equipment.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2513. Sanitization

[formerly paragraph 22:19-7]

A. After the food-contact surfaces of all equipment and utensils are washed and rinsed, they shall be sanitized before use. Clean food-contact surfaces of all equipment and utensils shall be sanitized in:

1. hot water:

a. if immersion in hot water is used in manual operation, the temperature of the water shall be maintained at 171EF (77EC) or above;

b. in a mechanical operation, the temperature of the hot water rinse as it enters the manifold may not be more than 194EF (90EC) or less than:

i. for a single tank, stationary rack, single temperature machine, 165EF (74EC); or

ii. for all other machines, 180EF (82EC). This should achieve a utensil surface temperature of 160EF (71EC) as measured by an irreversible registering temperature indicator;

c. in a mechanical operation using a hot water rinse, the flow pressure may not be less than 15 pounds per square inch or more than 25 pounds per square inch as measured in the water line immediately upstream from the fresh hot water sanitizing rinse control valve;

2. chemicals:

a. only a chemical sanitizer listed in 21 CFR 178.1010, Sanitizing Solutions, shall be used in a sanitizing solution for manual or mechanical operation at the specified exposure times. These sanitizing solutions shall be used in accordance with the EPA approved manufacturers label use instructions, and shall be used as follows.

i. A chlorine solution shall have a minimum temperature based on the concentration and pH of the solution as listed in the following chart:

Minimum Concentration	Minimum Temperature	Minimum Temperature
MG/L or ppm	pH 10 or less	pH 8 or less
25 ppm	120EF (49EC)	120EF (49EC)
50 ppm	100EF (38EC)	75EF (24EC)
100 p.p.m	55EF (13EC)	55EF (13EC)

ii. An iodine solution shall have a:

(a). minimum temperature of 75EF (24EC);

(b). pH of 5.0 or less, unless the manufacturer's use directions included in the labeling specify a higher pH limit of effectiveness; and

(c). concentration between 12.5 mg/L and 25 mg/L(ppm).

iii. A quarternary ammonium compound solution shall:

(a). have a minimum temperature of 75EF (24EC);

(b). have a concentration of 200 mg/L (ppm) or as indicated by the manufacturer's use directions included in labeling; and

(c). be used only in water with 500 mg/L (ppm) hardness or less.

iv. Other solutions of the chemicals specified in (i), (ii), and (iii), of this Subparagraph may be used if demonstrated to the department to achieve sanitization and approved by the department; or

v. other chemical sanitizers may be used if they are applied in accordance with the manufacturer's use directions included in the labeling.

b. Chemical, manual or mechanical operations, including the applications of sanitizing chemicals by immersion, manual swabbing, brushing, or pressure spraying methods, using a solution as specified in §2513.A.2.a of this section shall be used to provide the following:

- i. an exposure time of at least 10 seconds for a chlorine solution;
- ii. an exposure time of at least 30 seconds for other chemical sanitizer solutions, or
- iii. an exposure time used in relationship with a combination of temperature, concentration, and pH that, when evaluated for efficacy, yields sanitization as defined in this part.

c. A test kit or other device that accurately measures the concentration in mg/L or parts per million (ppm) of sanitizing solution shall be provided.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2515. Air Drying

[formerly paragraph 22:19-8]

A. Except as specified in Subsection C of this section, after cleaning and sanitizing, equipment and utensils may not be cloth-dried.

B. Equipment and utensils shall be air-dried or used after adequate draining as specified in paragraph (a) of 21 CFR 178.1010 Sanitizing Solutions, before contact with food.

C. Utensils that have been air-dried may be polished with cloths that are maintained clean and dry.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2517. Storage of Clean Equipment and Utensils

[formerly paragraph 22:19-9]

A. Except as specified in Subsection D of this Section, cleaned equipment, utensils and single-service and single use articles shall be stored:

1. in a clean dry location;
2. where they are not exposed to splash, dust, or contamination; and
3. at least 6 inches (15 cm) above the floor.

B. Clean equipment and utensils shall be stored as specified under Subsection A of this Section and shall be stored:

1. in a self-draining position that permits air drying; and
2. covered or inverted.

C. Single-service and single-use articles shall be stored as specified under Subsection A of this Section and shall be kept in the original protective package or stored by using other means that afford protection from contamination until used.

D. Items that are kept in closed packages may be stored less than 6 inches (15 cm) above the floor on dollies, pallets, racks, or skids provided that the storage equipment is designed so that it may be moved by hand or by conveniently available equipment such as hand trucks and forklifts.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2519. In Use and Between Use Utensil Storage **[formerly paragraph 22:19-10]**

A. During pauses in food preparation or dispensing, food preparation dispensing utensils shall be stored:

1. in the food;
 - a. with their handles above the top of the food and the container;
 - b. with their handles above the top of the food within containers or equipment that can be closed, if such food is not potentially hazardous, such as bins of sugar, flour, or cinnamon;
2. on a clean portion of the food preparation table or cooking equipment only if the in-use utensil and the food-contact surface of the food preparation table or cooking equipment are cleaned and sanitized at a frequency specified under §2503 of this Part;
3. in running water of sufficient velocity to flush particulate matter to the drain, if used with moist food such as ice cream or mashed potatoes; or
4. in a clean, protected location if the utensils, such as ice scoops, are used only with a food that is not potentially hazardous;
5. in a container of water if the water is maintained at a temperature of at least 140°F (60°C) and the container is cleaned at least once every 24 hours or at a frequency necessary to preclude accumulation of soil residues.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 27. Water Supply

§2701. General

[formerly paragraph 22:20-1]

A. Sufficient quantities of potable water for the needs of the food establishment or retail food store/market shall be provided in accordance with Chapter XII of this Title.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2703. Pressure

[formerly paragraph 22:20-2]

A. Water under pressure shall be provided to all fixtures, equipment, and nonfood equipment that are required to use water.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

§2705. Hot Water

[formerly paragraph 22:20-3]

A. Hot water shall be provided to all fixtures, equipment and nonfood equipment as required and the generation and distribution system shall be sufficient to meet the peak hot water demands throughout the food establishment or retail food store/market.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2707. Steam

[formerly paragraph 22:20-4]

A. Steam used in contact with food or food contact surfaces shall be free of deleterious materials or additives.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2709. Bottled Water

[formerly paragraph 22:20-5]

A. Bottled and packaged potable water shall be obtained from a source that complies with Chapter VI of this Title and the Food, Drug and Cosmetic Law and Regulations. Bottled and packaged potable water, if used, shall be handled and stored in a way that protects it from contamination and shall be dispensed from the original container.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 29. Sewage

§2901. General

[formerly paragraph 22:21-1]

A. All sewage from retail food establishments or retail food stores/markets shall be disposed of through an approved sewerage system/facility in accordance with Chapter XIII of this Title.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 31. Plumbing

§3101. General

[formerly paragraph 22:22-1]

A. Plumbing shall be sized, installed, and maintained in accordance with Chapter XIV of this Title.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3103. Cross-Connection

[formerly paragraph 22:22-2]

A. There shall be no cross-connection between the potable water supply and any other source of water of lesser quality including any source of pollution from which the potable water supply might become contaminated.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3105. Backflow

[formerly paragraph 22:22-3]

A. Backflow shall be prevented by:

1. installing an air gap in the water distribution system between the water supply inlet and the flood level rim of the plumbing fixture, equipment, or nonfood equipment which is at least twice the diameter of the water supply inlet (or generally, three times the diameter if affected by a nearby wall); or

2. installing an approved backflow or backsiphonage prevention device installed and maintained on a water line in accordance with Chapter XIV of this Title;

3. not having a direct connection between the drainage system and any drain line originating from equipment in

which food, portable equipment, or utensils are placed (e.g., any sink where food is cleaned, peeled, cut up, rinsed, battered, defrosted, or otherwise prepared or handled; potato peelers; ice cream dipper wells, refrigerators; freezers; walk-in coolers and freezers; ice boxes; ice making machines; fountain type drink dispensers; rinse sinks; cooling or refrigerating coils; laundry washers; extractors; steam tables; steam kettles; egg boilers; coffee urns; or similar equipment).

Exception: A commercial dishwashing (warewashing) machine may have a direct connection between its waste outlet and a floor drain when the machine is located within 5 feet (1.5 m) of a trapped floor drain and the machine outlet is connected to the inlet side of a properly vented floor drain trap.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3107. Non-Potable Water System

[formerly paragraph 22:22-4]

A. A non-potable water system is permitted only for purposes such as air conditioning and fire protection, provided the system is installed in accordance with Chapter XII and Chapter XIV of this Title and:

1. the non potable water does not contact directly or indirectly, food, potable water equipment that contacts food, or utensils; and

2. the piping of any nonpotable water system shall be easily identified so that it is readily distinguishable from piping that carries potable water.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3109. Lavatory Facilities

[formerly paragraph 22:22-5]

A. All lavatory fixtures shall be installed in accordance with Chapter XIV of this Title and:

1. at least one handwashing lavatory shall;

a. be located to permit convenient use by all employees in food preparation areas and utensil washing areas including the produce, meat and seafood markets;

b. also be located in or immediately adjacent to toilet rooms;

2. lavatories shall be accessible to employees at all times;

3. lavatories shall be equipped to provide a flow of water at a temperature of at least 85EF (30EC) through a mixing valve or combination faucet;

4. if a self-closing, slow-closing, or metering faucet is used, it shall provide a flow of water for at least 15 seconds without the need to reactivate the faucet;

5. steam mixing valves are prohibited;

6. a supply of hand-cleansing soap or detergents shall be available at each lavatory. A supply of individual disposable towels, a continuous towel system that supplies the user with a clean towel or a heat-air drying device shall be available at each lavatory. The use of common towels is prohibited;

7. lavatories, soap dispensers, hand-drying devices and all related fixtures shall be kept clean and in good repair;

8. a handwashing lavatory may not be used for purposes other than handwashing.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3111. Toilet Facilities

[formerly paragraph 22:22-6]

A. All toilet fixtures and facilities shall be installed in accordance with Chapter XIV of this Title and:

1. toilet fixtures and facilities shall be the number required, shall be conveniently located, and accessible to employees at all times;
2. a toilet room located on the premises shall be completely enclosed and provided with a solid tight-fitting and self-closing door except that this requirement does not apply to a toilet room that is located outside a food establishment or retail food store/market and does not open directly into the food establishment or retail food store/market, such as but not limited to shopping malls, airports, or other places of public assembly;
3. toilet rooms shall be mechanically vented to the outside atmosphere;
4. toilet fixtures and facilities shall be kept clean and in good repair. A supply of toilet tissue shall be provided at each toilet at all times. Easily cleanable receptacles shall be provided for waste materials with at least one covered waste receptacle in toilet rooms used by women.

B. Toilet rooms shall be provided with a properly installed floor drain. The floor shall slope towards the floor drain.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3113. Grease Traps

[formerly paragraph 22:22-7]

A. An approved type grease trap shall be installed in accordance with Chapter XIV of this Title and:

1. it shall be installed in the waste line leading from the sinks, drains and other fixtures or equipment where grease may be introduced in the drainage or sewage system in quantities that may affect line stoppage or hinder sewage treatment;
2. a grease trap, if used, shall be located to be easily accessible for cleaning and shall be serviced as often as necessary.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3115. Garbage Grinders

[formerly paragraph 22:22-8]

A. If used, garbage grinders shall be installed and maintained in accordance with Chapter XIV of this Title.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3117. Utility or Service Sink

[formerly paragraph 22:22-9]

A. At least one service sink or one curbed cleaning facility equipped with a floor drain shall be provided and conveniently located for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water and

similar liquid waste. The sink shall be located in an area to avoid food contamination.

B. The use of lavatories, utensil washing, equipment washing, or food preparation sinks as a utility or service sink is prohibited.

C. In some special applications, because of space restrictions or unique situations, when the risk of contamination is low in the opinion of the state health officer, a large utility/service sink may be used as a handwashing sink.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 33. Garbage, Rubbish and Refuse

§3301. General

[formerly paragraph 22:23-1]

A. All garbage, rubbish and refuse shall be handled in accordance with Chapter XXVII of this Title.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3303. Receptacles for Garbage, Rubbish and Refuse

[formerly paragraph 22:223-2]

A. Equipment and receptacles for refuse, recyclables, returnables, and for use with materials containing food residue shall be durable, cleanable, insect and rodent resistant, leakproof, and nonabsorbent.

B. Plastic bags and wet strength paper bags may be used to line receptacles for storage of garbage, etc., inside the retail food establishment or retail food store/market, or within closed outside receptacles.

C. Outside receptacles for garbage, etc., shall have tight-fitting lids, doors, or covers and shall be kept closed.

D. There shall be a sufficient number of receptacles to hold all the garbage and refuse that accumulates. They shall be emptied when full. All garbage, rubbish and refuse shall be disposed of in an approved manner pursuant to applicable state laws and regulations.

E. Soiled receptacles shall be cleaned at a frequency to prevent a nuisance or the attraction of insects and rodents.

F. Liquid waste from compacting shall be disposed of as sewage.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3305. Incineration

[formerly paragraph 22:23-3]

A. Where garbage, rubbish or refuse is burned on the premises, it shall be done by incineration in accordance with the rules and regulations of the Louisiana Department of Environmental Quality.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3307. Cleaning and Storage

[formerly paragraph 22:23-4]

A. Indoor garbage or refuse storage rooms, if used, shall be constructed of easily cleanable, nonabsorbent washable materials, shall be kept clean, shall be insect and rodent

proof and shall be large enough to store the garbage and refuse that accumulates.

B. Outdoor garbage or refuse storage area surfaces shall be constructed of non-absorbent material such as concrete or asphalt and shall be smooth, durable, and sloped for drainage.

C. Suitable cleaning equipment and supplies such as high pressure pumps, hot water, steam, and detergent shall be provided as necessary for effective cleaning of equipment and receptacles.

D. Liquid waste from the cleaning operation shall be disposed of as sewage. Methods used for this disposal shall prevent rainwater and runoff from entering the sanitary sewerage system. Dumpster pads may be elevated or curbed, enclosed or covered, and the sanitary sewerage drain protected with a proper cover.

E. If approved by the state health officer, off-premises-based cleaning services may be used if on-premises cleaning implements and supplies are not provided.

F. Outdoor premises used for storage of garbage, rubbish, refuse, recyclables and returnables shall be maintained clean and free of litter.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 35. Insects and Rodent Control

§3501. General

[formerly paragraph 22:24-1]

A. Insects and rodents shall be controlled in accordance with Chapter V of this Title.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3503. Insect Control Devices

[formerly paragraph 22:24-2]

A. Insect control devices that are used to electrocute or stun flying insects shall be designed to retain the insect within the device.

B. Insect control devices shall be installed so that:

1. the devices are not located over a food preparation area, and

2. dead insects and insect fragments are prevented from being impelled onto or falling on exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3505. Openings

[formerly paragraph 22:24-3]

A. Openings to a portion of the building that is not part of the food establishment or to the outdoors shall be protected against the entry of insects and rodents by:

1. filling or closing holes and other gaps along floors, walls and ceilings;

2. closed, tight-fitting windows;

3. solid, self-closing, tight-fitting doors; or

4. if windows or doors are kept open for ventilation or other purposes, the openings shall be protected against the entry of insects by:

a. 16 mesh to the inch (25.4 mm) screens;

b. properly designed and installed air curtains; or

c. other effective means approved by the department.

B. Establishment location, weather or other limiting conditions may be considered as part of an overall flying insect and other pest control program.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3507. Premises

[formerly paragraph 22:24-2]

A. The premises shall be free of:

1. items that are unnecessary to the operation or maintenance of the food establishment such as equipment that is nonfunctional or no longer used; and

2. litter.

B. The premises shall be kept free of pests by:

1. routinely inspecting the premises for evidence of pests; and

2. using methods of control approved by law.

C. Outdoor walking and driving areas shall be surfaced with concrete, asphalt, gravel or other materials that have been effectively treated to minimize dust, facilitate maintenance, drain properly and prevent muddy conditions.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 37. Physical Facilities

§3701. Floors

[formerly paragraph 22:25]

A. Floors shall be constructed of smooth, durable, nonabsorbant and easily cleanable material.

B. Closely woven and easily cleanable carpet may be used in certain areas of the food establishment or retail food store/market except where food is prepared and processed.

C. Properly installed floor drains shall be provided in toilet rooms, seafood and meat markets and in all areas where water flush cleaning methods are used. The floor shall be sloped to the floor drain.

D. Floors shall be maintained clean and in good repair.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

§3703. Walls and Ceilings

[formerly paragraph 22:26]

A. Walls and ceilings in the food preparation areas and equipment-utensil washing areas shall be constructed of light colored, smooth, durable and easily cleanable materials.

B. Utility service lines, pipes, exposed studs, joists, rafters and decorative items shall not be unnecessarily exposed in food preparation and processing areas. When exposed in other areas of the food establishment or retail food store/market, they shall be installed so they do not obstruct or prevent cleaning of the walls and ceilings.

C. Walls, ceilings, and any attachments shall be maintained clean and in good repair.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3705. Lighting Intensity

[formerly paragraph 22:27-1]

A. The lighting intensity:

1. in walk-in refrigeration units and dry food storage areas, and in other areas or rooms during periods of cleaning, shall be at least 110 lux (10 foot candles) at a distance of 30 inches (75 cm) above the floor.

2. in areas where there is consumer self service, areas used for handwashing, warewashing, equipment and utensil storage, and in toilet rooms, shall be at least 220 lux (20 foot candles) at a distance of 30 inches (75 cm) above the floor.

3. at a surface where a food employee is working with unpackaged potentially hazardous food or with food, utensils, and equipment such as knives, slicers, grinders, or saws where employees' safety is a factor, shall be at least 540 lux (50 foot candles) at a distance of 30 inches (75 cm) above the floor.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3707. Light Shielding

[formerly paragraph 22:27-2]

A. Light bulbs shall be shielded, coated, or otherwise shatter-resistant in areas where there is exposed food, clean equipment, utensils and linens or unwrapped single-service and single-use articles.

B. Infrared or other heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb so that only the face of the bulb is exposed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3709. Mechanical Ventilation

[formerly paragraph 22:28-1]

A. If necessary to keep rooms free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes, mechanical ventilation of sufficient capacity shall be provided exhausting to the outside atmosphere.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3711. Hood Ventilation [formerly paragraph 22:28-2]

A. Ventilation hood systems and devices shall be sufficient in number and capacity to prevent grease or condensation from collecting on walls and ceilings and should be equipped with filters to prevent grease from escaping into the outside atmosphere.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3713. Heating, Air Conditioning, Ventilating System

Vents [formerly paragraph 22:28-3]

A. These systems shall be designed and installed so that make-up air intake and exhaust vents do not cause contamination of food, food preparation surfaces, equipment and utensils.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 39. Poisonous or Toxic Materials

§3901. Labeling

[formerly paragraph 22:29-1]

A. Containers of poisonous or toxic materials and personal care items shall bear a legible manufacturer's label.

B. Working containers used for storing poisonous or toxic materials such as cleaners and sanitizers taken from bulk supplies shall be clearly and individually identified with the common name of the material. This practice is not allowed in a day-care or residential facility.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3903. Storage and Display

[formerly paragraph 22:29-2]

A. Poisonous or toxic materials shall be stored for use in food establishments or displayed for retail sale or use in retail food stores/markets so they may not contaminate food, equipment, utensils, linens, single-service and single-use articles by:

1. separating the poisonous or toxic materials by spacing or partitioning; and

2. locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, single-service and single-use articles; and

3. storing those properly labeled medicines and first aid supplies necessary for the health of employees or for retail sale in a location or area that prevents contamination of food, equipment, utensils, linens, single-service and single-use articles; and

4. storing medicines belonging to employees that require refrigeration (and are stored in a food refrigerator) in a package or container kept inside a covered, leakproof container that is identified as a container for the storage of medicines, or as specified for day care centers and residential facilities in Chapter XXI of this Title; and

5. storing employees' personal care items in lockers or other suitable facilities that are located in an area that prevents contamination of food, equipment, utensils, linens, single-service and single-use articles.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3905. Use

[formerly paragraph 22:29-3]

A. Only those poisonous or toxic materials that are required for the operation and maintenance of the food establishment or retail food store/market such as for the cleaning and sanitizing of equipment and utensils and the control of insects and rodents, shall be allowed in food preparation and processing areas. This does not apply to approved, packaged poisonous or toxic materials that are for retail sale stored in accordance with §3903.

B. Poisonous or toxic materials shall be stored in accordance with §3903 and used according to:

1. law;

2. manufacturer's use directions included in labeling, and, for a pesticide, manufacturer's label instructions including a statement that the use is allowed in a food preparation or processing area; and

3. any additional conditions that may be established by the regulatory authority.

C. Chemical sanitizers and other chemical antimicrobials applied to food contact surfaces shall meet the requirements specified in §2513.A.2 and §2515.B.

D. Chemicals used to wash or peel raw, whole fruits and vegetables shall be used in accordance with the manufacturer's label instructions and as specified in 21 CFR 173.315.

E. Restricted use pesticides shall be applied and used according to law and in accord with the manufacturer's label instructions.

F. Rodent bait shall be contained in a covered, tamper-resistant bait station.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 41. Miscellaneous

§4101. Prohibitive Acts

[formerly paragraph 22:30]

A. Except as specified in Subsection B of this Section, live animals may not be allowed on the premises of food establishments or retail food stores/markets.

B. Live animals may be allowed in the following situations if the contamination of food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles cannot result; such as

1. edible fish or decorative fish in aquariums, shellfish and crustacea in display tank systems;

2. patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas, and sentry dogs running loose in outside fenced areas;

3. service animals that are controlled by a disabled employee or person, if a health or safety hazard will not result from the presence or activities of the service animal, in areas that are not used for food preparation and that are usually open for customers, such as dining and sales areas;

4. pets in the common dining areas of group residences at times other than during meals if:

a. effective partitioning and self-closing doors separate the common dining areas from storage or food preparation areas;

b. condiments, equipment, and utensils are stored in enclosed cabinets or removed from the common dining areas when pets are present; and

c. dining areas including tables, countertops, and similar surfaces are effectively cleaned before the next meal service.

C. Body Art. No employee or any other person shall engage in the practice of "Body art" within the premises of any food establishment or retail food store/market as defined in this Part.

D. Persons unnecessary to the food establishment or retail food store/market operation are not allowed in the food preparation, food storage, or warewashing areas, except that brief visits and tours may be authorized by the person in charge if steps are taken to ensure that exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles are protected from contamination.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4103. Distressed Merchandise

[formerly paragraph 22:32]

A. Products that are held by the food establishment or retail food store/market for credit, redemption, or return to the distributor, such as damaged, spoiled, or recalled products, shall be segregated and held in designated areas that are separated from food, equipment, utensils, linens, and single-service and single-use articles.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4105. Dressing Areas, Lockers and Employee Break Areas [formerly paragraph 22:33]

A. Dressing rooms or dressing areas shall be designated if employees routinely change their clothes in the establishment.

B. Lockers or other suitable facilities shall be provided and used for the orderly storage of employees' clothing and other possessions.

C. Areas designated for employees to eat, drink, and use tobacco shall be located so that food, equipment, linens, and single-service and single-use articles are protected from contamination. Areas where employees use tobacco should be well ventilated.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4107. Linen/Laundry, General

[formerly paragraph 22:35-1]

A. Clean linens shall be free from food residues and other soiled matter.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4109. Linen/Laundry, Frequency of Cleaning

[formerly paragraph 22:35-2]

A. Linens that do not come in direct contact with food shall be laundered between operations if they become wet, sticky, or visibly soiled.

B. Cloth gloves shall be laundered before being used with a different type of raw animal food such as beef, lamb, pork, and fish.

C. Wet wiping cloths shall be laundered before being used with a fresh solution of cleanser or sanitizer.

D. Dry wiping cloths shall be laundered as necessary to prevent contamination of food and clean serving utensils.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4111. Wiping Cloths

[formerly paragraph 22:35-3]

A. Cloths that are used for wiping food spills shall be used for no other purpose.

B. Moist cloths used for wiping food spills on food contact surfaces of equipment shall be stored in an approved chemical sanitizing solution between uses.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4113. Storage of Soiled Linens

[formerly paragraph 22:35-4]

A. Soiled linens shall be kept in clean, nonabsorbent receptacles or clean, washable laundry bags and stored and transported to prevent contamination of food, clean equipment, clean utensils and single-service and single-use articles.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4115. Use of Laundry Facilities

[formerly paragraph 22:35-5]

A. Laundry facilities on the premises of a food establishment or retail food store/market shall be used only for the washing and drying of items used in the operation of the establishment and located away from food preparation areas.

B. Linens which are not laundered on the premises may be sent to an off premise commercial laundry.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4117. Living Areas

[formerly paragraph 22:36]

A. Living or sleeping quarters such as a private home, a room used as living or sleeping quarters, or an area directly opening into a room used as living or sleeping quarters, shall not be used for conducting food establishment or retail food store/market operations.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4119. Maintenance Equipment

[formerly paragraph 22:37]

A. Maintenance tools such as brooms, mops, vacuum cleaners, and similar equipment shall be:

1. stored so they do not contaminate food, equipment, utensils, linens, and single-service and single-use articles; and

2. stored in an orderly manner that facilitates cleaning.

B. Mops should be hung and/or stored in a manner to facilitate air drying.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4121. Reduced Oxygen Packaging Criteria

[formerly paragraph 22:39]

A. A food establishment or retail food store/market that packages food using a reduced oxygen packaging method shall have a Hazard Analysis Critical Control Point (HACCP) plan as specified in §311 which provides the following information:

1. identifies the food to be packaged;

2. limits the food packaged to a food that does not support the growth of *Clostridium botulinum* because it complies with one of the following:

- a. has a water activity of (a_w) of 0.91 or less;
- b. has a pH of 4.6 or less;

c. is a meat product cured at a food processing plant regulated by the USDA or the Louisiana. Department of Agriculture using substances specified in 9 CFR 318.7 Approval of substances for use in the preparation of products and 9 CFR 381.147 Restrictions on the use of substances in poultry products and is received in an intact package; or

d. is a food with a high level of competing organisms such as raw meat or raw poultry;

3. specifies methods for maintaining food at 41EF (5EC) or below;

4. describes how the packages shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:

a. maintain the food at 41EF (5EC) or below, and

b. discard the food if within 14 calendar days of its packaging it is not served for on-premises consumption, or consumed if served or sold for off-premise consumption;

5. limits the shelf life to no more than 14 calendar days from packaging to consumption or the original manufacturer's "sell by" or "use by" date, which ever occurs first;

6. includes operational procedures that:

a. prohibit contacting food with bare hands;

b. identify a designated area and the method by which:

i. physical barriers or methods of separation of raw foods and ready-to eat foods minimize cross-contamination, and

ii. access to the processing equipment is restricted to responsible trained personnel familiar with the potential hazards of the operation, and

c. delineate cleaning and sanitization procedures for food-contact surfaces; and

7. describes the training program that ensures that the individual responsible for reduced oxygen packaging (vacuum packaging) operation understands the:

a. concepts required for a safe operation;

b. equipment and facilities, and

c. procedures specified in Paragraph A.6 of this subsection and the HACCP plan.

B. Except for fish that is frozen before, during, and after packaging, a food establishment may not package fish using a reduced oxygen packaging method.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4123. Smoked Meat Preparation, Not Fully Cooked

[formerly paragraph 22:40-1]

A. Not fully cooked smoked meats, also referred to as "partially cooked meats," shall be heated to a temperature and time sufficient to allow all parts of the meat to reach between 100EF and 140EF. This product shall be labeled on each retail package "FURTHER COOKING REQUIRED" with lettering of not less than one-half inch.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4125. Smoked Meat Preparation, Fully Cooked

[formerly paragraph 22:40-2]

A. Fully cooked smoked meats shall be heated at a temperature and time sufficient to allow all parts of the meat

to reach 155EF except poultry products which shall reach 165EF with no interruption of the cooking process and fish which shall reach 145EF.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4127. Open Air Markets

A. Markets commonly called "open air markets," "curb markets" or "open front markets" shall store all food products above the floor or ground level.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4129 Itinerant Food Establishments, Itinerant Retail Food Stores/Markets Permit **[formerly paragraph 22:34-1]**

A. No itinerant food establishment or itinerant retail food store/market shall operate without first applying for and receiving a permit from the state health officer.

B. Seasonal permits issued to itinerant food establishments or itinerant retail food stores/markets should coincide with the legally set seasons for the products those markets plan to handle or sell and expire the last day of the season.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4131. Itinerant Food Establishments, Itinerant Food Stores/Markets Plans **[formerly paragraph 22:34-2]**

A. Plans and specifications for all proposed itinerant food establishments or itinerant retail food stores/markets shall be submitted to the state health officer for review and approval before applying for and receiving a permit.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 43. Inspections and Enforcement

§4301. Inspections, Frequency **[formerly paragraph 22:42-1]**

A. Inspections of food establishments or retail food stores/markets shall be performed by the department as often as necessary for the enforcement of this Part.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4303. Inspections, Access **[formerly paragraph 22:42-2]**

A. Representatives of the state health officer, after proper identification, shall be permitted to enter any food establishment or retail food store/market at any time for the purpose of making inspections to determine compliance with this Part.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4305. Inspections, Records

[formerly paragraph 22:42-3]

A. The state health officer shall be permitted to examine the records of food establishments or retail food stores/markets to obtain information pertaining to food and supplies purchased, received, or used, or to persons employed. Such records shall be maintained for a period of not less than six months.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4307. Inspections, Reports **[formerly paragraph 22:42-4]**

A. Whenever an inspection of a food establishment or retail food store/market is made, the findings shall be recorded on an inspection report form. A copy of the completed inspection report shall be furnished to the person in charge of the food establishment or retail food store/market at the conclusion of the inspection.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4309. Enforcement, General **[formerly paragraph 22:43-2]**

A. Enforcement procedures shall be conducted in accordance with Part I of this Title.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4311. Enforcement, Critical Violations **[formerly paragraph 22:43-2]**

A. Critical items, such as, but not limited to a potentially hazardous food stored at improper temperature, poor personal hygienic practices, not sanitizing equipment and utensils, no water, contaminated water source, chemical contamination, sewage backup or improper sewage disposal, noted at the time of inspection shall be corrected immediately or by a time set by the state health officer.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4313. Enforcement, Noncritical Violations **[formerly paragraph 22: 43-3]**

A. Noncritical items noted at the time of inspection shall be corrected as soon as possible or by a time limit set by the state health officer.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4315. Enforcement, Adulterated Food **[formerly paragraph 22:43-4]**

A. Any food product that is adulterated, misbranded or unregistered is subject to seizure and condemnation by the state health officer according to law.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 45. Mobile Food Establishments, Mobile Retail Food Stores/Markets and Pushcarts [formerly paragraph 22:34-3]

§4501. Interior of Vehicles

A. The interior of vehicles where food products are prepared and stored shall be constructed of a smooth, easily cleanable surface and maintained in good repair.

B. The interior of vehicles where food products are prepared and stored shall be kept clean.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4503. Packaged Food Products

[formerly paragraph 22:34-4]

A. Trucks or vendors selling packaged food products such as ice cream, frozen novelties, meats, etc. shall operate from a base of operation where leftover products may be properly stored and inspected and the vehicle serviced. Packaged potentially hazardous foods shall be stored in accordance with §1309 and §1313.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4505. Produce

[formerly paragraph 22:34-5]

A. Produce vendors shall comply with §1101, §1103, §1107, §4101 and Chapter 15 of this Part. The produce should be protected by some type of enclosure or cover on the vehicles. Any produce left at the end of the day should be properly stored and protected from insects and rodents overnight.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4507. General

[formerly paragraph 23:117-1]

A. Mobile food establishments, mobile retail food stores/markets or pushcarts shall comply with the requirements of this Part, except as otherwise provided in this section and in §4129. The department may impose additional requirements to protect against health hazards related to the conduct of the food establishment or retail food store/market as a mobile operation, may prohibit the sale of some or all potentially hazardous food and when no health hazard will result, may modify requirements of this Part relating to physical facilities.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4509. Plans Submission

[formerly paragraph 22:34-2]

A. Properly prepared plans and specifications for mobile food establishments, mobile retail food stores/markets and pushcarts shall be submitted to the state health officer for review and approval before construction is begun.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4511. Permit

[formerly paragraph 23:125]

A. No person shall operate a mobile food establishment, mobile retail food store/market or pushcart who does not have a valid permit issued to him by the state health officer. Only a person who complies with the requirements of this Part shall be entitled to receive or retain such a permit. Permits are not transferable. A valid permit shall be posted in every mobile food establishment, mobile retail food store/market or pushcart.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4513. Issuance of Permits

[formerly paragraph 23:126-1]

A. Any person desiring to operate a mobile food establishment, mobile retail food store/market or pushcart shall make written application for a permit on forms provided by the state health officer. Such application shall include the name and address of each applicant, the location and type of the proposed mobile food establishment, mobile retail food store/market or pushcart, and the signature of each applicant.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4515. Restricted Operations

[formerly paragraph 22:34-6]

A. Boiled peanuts shall be handled in accordance with guidelines set by the state health officer.

B. Hot tamales shall be handled in accordance with guidelines set by the state health officer.

C. Seafood

1. Boiled seafood shall be cooked and handled in accordance with guidelines set by the state health officer.

2. Oysters sold by the sack must be in an enclosed, mechanically refrigerated vehicle and comply with §1101, §1103, §1107, §1109 and §1117 of this Part.

3. Live crabs or crawfish sold by the bushel or sack must be stored either on ice in an enclosed, insulated vehicle or in an enclosed mechanically refrigerated vehicle and comply with §1101, §1103 and §1117 of this Part.

4. Raw shrimp vendors:

a. shall store their shrimp in containers such as ice chests which are smooth, impervious and easily cleanable. The use of styrofoam is prohibited;

b. shall maintain shrimp at a temperature of 41EF (5EC) in accordance with §1309 of this Part;

c. shall provide a minimum one gallon container of sanitizer solution at the proper strength in accordance with §2513.A.2 to rinse hands, scoops, scales, ice chests, etc., as needed; and

d. shall provide paper hand towels and a waste receptacle.

5. Waste water from any seafood vendor shall be disposed of properly in accordance with §2901. Waste water shall be collected in an approved, covered, labeled container for proper disposal. The discharging of waste water onto the ground or into a storm drainage system is prohibited.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4517. Single-Service Articles

[formerly paragraph 23:119]

A. Mobile food establishments, mobile retail food stores/markets or pushcarts shall provide only single-service articles for use by the consumer.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4519. Water System

[formerly paragraph 23:120]

A. A mobile food establishment, mobile retail food store/market requiring a water system shall have a potable water system under pressure. The system shall be of sufficient capacity to furnish enough hot and cold water for food preparation, utensil cleaning and sanitizing, and handwashing, in accordance with the requirements of this regulation. The water inlet shall be located so that it will not be contaminated by waste discharge, road dust, oil, or grease, and it shall be kept capped unless being filled. The water inlet shall be provided with a transition connection of a size or type that will prevent its use for any other service. All water distribution pipes or tubing shall be constructed and installed in accordance with the requirements of Chapter XIV of this Title. An approved gauge shall be provided to determine contents level.

B. Potable water shall come from an approved source in accord with the requirements of Chapter XII of this Title.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4521. Waste Retention

[formerly paragraph 23:121]

A. If liquid waste results from operation of a mobile food establishment or mobile retail food store/market, the waste shall be stored in a permanently installed retention tank that is of at least 15 percent larger capacity than the water supply tank. Liquid waste shall not be discharged from the retention tank when the mobile food establishment or mobile retail food store/market is in motion. All connections on the vehicle for servicing mobile food establishment or mobile retail food store/market waste disposal facilities shall be of a different size or type than those used for supplying potable water to the mobile food establishment or mobile retail food store/market. The waste connection shall be located lower than the water inlet connection to preclude contamination of the potable water system. An approved gauge shall be provided to determine content levels.

B. Wastewater from mobile food establishments or mobile retail food stores/markets shall be disposed of in accord with §2901 of this Part.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4523. Base of Operations/Commissary

[formerly paragraphs 23:122, 23:123, 23:124]

A. Mobile food establishments, mobile retail food stores/markets and pushcarts shall operate from a commissary or other fixed food establishment and shall

report at least daily to such location for all supplies and for all cleaning and servicing operations.

B. The commissary or other fixed food establishments used as a base of operation for mobile food establishments, mobile retail food stores/markets, or pushcarts shall be constructed and operated in compliance with the requirements of this Part.

C. Servicing Area

1. A servicing area shall be provided and shall include at least overhead protection for any supplying, cleaning, or servicing operation. Within this servicing area, there shall be a location provided for the flushing and drainage of liquid wastes separate from the location provided for water servicing and for the loading and unloading of food and related supplies.

2. The surface of the servicing area shall be constructed of a smooth nonabsorbent material, such as concrete or machine-laid asphalt and shall be maintained in good repair, kept clean, and be graded to drain.

3. Potable water servicing equipment shall be installed according to law and shall be stored and handled in a way that protects the water and equipment from contamination.

4. The liquid waste retention tank, where used, shall be thoroughly flushed and drained during the servicing operation. All liquid waste shall be discharged to a sanitary sewage disposal system in accordance with §2901 of this Part.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 47. Temporary Food Service

§4701. General

[formerly paragraph 23A:002]

A. The state health officer or his/her duly authorized representative may impose requirements in addition to those set forth below to protect against health hazards related to the operation of the temporary food service, may prohibit the sale of some or all potentially hazardous foods, and when no health hazard will result, may waive or modify requirements of the state sanitary code, in accordance with the Administrative Procedure Act. Nothing in this Part shall be construed to abridge the constitutional rights of the people to peaceably assemble.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4703. Permits

[formerly paragraph 23A:003]

A. A temporary food service permit is not required for those fairs or festivals expressly exempted from regulation by R.S. 40:4.1 thru R.S. 40:4.6 inclusive.

B. When an organizer, promoter, or chairman of an exempted fair or festival makes written request for Office of Public Health inspections and permits and pays applicable fees, he or she shall comply with §4705 of this Part.

C. All fairs or festivals not exempted by Subsection A of this Section, shall not be allowed to operate until applying for, paying applicable fees, and receiving a valid permit to operate from the state health officer or his/her duly authorized representative.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4705. Written Application
[formerly 23A:003-1]

A. Written application for permit (LHS-31A), signed agreement, and supplemental application (obtainable from the parish health unit) should be received by the state health officer or his/her duly authorized representative at least thirty days in advance of the proposed gathering.

B. A permit to operate shall be required of the festival, fair or other special event organizer or promoter and must be obtained from the local parish health unit. The application for permit shall include the:

1. name and location of the special event;
2. permanent mailing address and phone number;
3. name of the property owner;
4. opening date and closing date;
5. daily hours of operation;
6. size of site (square feet);
7. anticipated maximum attendance at any one time;
8. name of the event organizer or promoter;
9. home address and phone number of the organizer or promoter;
10. business address and phone number of the organizer or promoter;
11. list of each individual food operator/ responsible person, including their home address, home phone number, business phone, and food items to be sold;
12. outline map showing the location of all proposed and existing:
 - a. toilets;
 - b. lavatory facilities;
 - c. water supply sources (including storage tanks) and distribution system;
 - d. food service areas (including diagram and description of the types of booths, tents, etc. to be used for the preparation of or dispensing of any food or beverage products);
 - e. garbage and refuse storage and disposal areas;
 - f. special event command post; and
 - g. location of sewage disposal.

C. The following optional information is recommended to be included with the application for permit (on the outline map):

1. areas of assemblage;
2. camping areas (if any);
3. entrance and exits to public roadways;
4. emergency ingress and egress roads;
5. emergency medical and local enforcement command posts;
6. parking facilities;
7. written plan for dust control; and
8. written plan for emergency situations. (e.g. inclement weather, etc).

D. A permit to operate shall be required of each Individual Food Operator/Responsible Person operating a temporary food service unit/booth and must be obtained from the local parish health unit. Permits are not transferrable and shall be issued for each food and/or beverage unit/booth. Permits shall be posted in the temporary food service unit/booth.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4707. Ice/Wet Storage
[formerly paragraph 23A:004]

A. Ice shall be made and stored as required by §1907 of this Part and Chapter VI of this Title. Ice scoops must be used. The use of dry ice and/or frozen gel packs are recommended for cold storage. Storage of packaged food in contact with water or undrained ice is prohibited. Sandwiches shall not be stored in direct contact with ice.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4709. Equipment
[formerly paragraph 23A:004-1]

A. Equipment and food contact surfaces shall comply with Chapter 21 and Chapter 25 of this Part.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4711. Food Source and Protection
[formerly paragraph 23A:005-1]

A. Food shall be obtained, prepared, stored, handled and transported in accordance with Chapter 11, Chapter 13, Chapter 15, Chapter 17 and Chapter 19 of this Part. The sale of potentially hazardous home prepared food is prohibited.

B. The re-use of containers made of paper, wood, wax, or plastic coated cardboard is prohibited. Containers made of glass, metal, or hard plastic may be re-used only after they are properly washed, rinsed and sanitized.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4713. Personal Hygiene
[formerly paragraph 23A:007]

A. Each person working in a food booth shall comply with Chapter 7 and Chapter 9 of this Part.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4715. Food Stand/Booth Construction
[formerly paragraph 23A:008]

A. [formerly paragraph 23A:008-1] Indoor booths must be constructed with tables, counters, and/or walls on all sides to control patron access. Food service must be from the rear area of the booth or otherwise dispensed to prevent contamination by customers.

B. [formerly paragraph 23A:008-2] Outdoor booths must be constructed to include a roof made of wood, canvas, or other material that protects the interior of the booth from the weather and be enclosed by counters/walls to control patron access.

1. It is recommended that the booth be enclosed on three sides with the fourth, front side encompassing the service area, so constructed as to minimize the entrance of dust, flies and vermin. The use of screen, mosquito netting, or polyurethane for this purpose is acceptable; counter-service openings shall be minimal.

2. Additional protective covering must be provided to completely enclose outer openings in the event of rain, dust storms or other inclement weather.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4717. Floors

[formerly paragraph 23X:008-3]

A. Floors shall be kept clean, in good repair and level, so as not to allow the pooling of water. It is recommended that floors be constructed of concrete, asphalt, or similar material. Dirt or gravel, when graded to drain, may be used, however, clean removable pallets, duckboard, plywood, or similar material is recommended.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4719. Barbecue Places

[formerly paragraph 23A:008-4]

A. Places where barbecue is cooked must be provided with a cover impenetrable by rain or barbecue pits must be provided with covers. All food storage and handling must comply with §4711 of this Part.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4721. Seafood Boils

[formerly paragraph 23A:008-5]

A. Seafood boiling areas must be provided with a cover impenetrable to rain or a covered boiling apparatus. All food storage and handling must comply with §4711 of this Part.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4723. Exception

[formerly paragraph 23A:008-6]

A. Pre-packaged, pre-wrapped and properly labeled (according to the provisions of the Louisiana Food, Drug and Cosmetic Law) foods may be offered for sale in open type food stands, providing such food is properly stored and handled as described in this Part.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4725. Sanitizing of Utensils and Equipment

[formerly paragraph 23A:009]

A. All utensils and equipment must be washed, rinsed and sanitized at least daily, or as required in Chapter 25 of this Part.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4727. Water

[formerly paragraph 23A:010]

A. Enough potable water from an approved source shall be provided for drinking, food preparation, for cleaning and sanitizing utensils and equipment, and for handwashing in

accordance with Chapter 27 and Chapter 31 of this Part and Chapter XII of this Title.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4729. Sewage (Toilets and Waste)

[formerly paragraph 23A:011]

A. Approved facilities shall be provided and maintained for the disposal of all sewage and liquid waste in accordance with §2901 of this Part and Chapter XIII of this Title.

B. Toilets shall be provided at the rate of one per 200 persons or fractional part thereof.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4731. Hand Washing

[formerly paragraph 23A:012]

A. When water under pressure is available, a hand washing facility shall be provided in accordance with §3109 of this Part.

B. When water under pressure is not available at the serving or food dispensing booth, two buckets of water shall be provided for each food concessionaire. One bucket containing potable water must be provided to remove extraneous materials or excess food particles; a second bucket containing a sanitizing solution (100 ppm chlorine, or 25 ppm iodine, or 200 ppm quaternary ammonia) must be provided as a hand dip well.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4733. Refuse (Garbage and Trash)

[formerly paragraph 23A:013]

A. All garbage and refuse shall be handled in accordance with Chapter 33 of this Part and Chapter XXVII of this Title.

B. A 50 gallon refuse container shall be provided at the rate of one for each 100 persons at peak anticipated attendance. In addition, each food vendor must have a covered refuse container for booth use.

C. Grease containers must be provided and all used grease must be deposited in these containers. Grease must not be poured down any drain.

D. The grounds and immediate surrounding properties shall be cleaned of refuse as soon as possible following the assembly, within and not exceeding 24 hours of closure.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4735. Miscellaneous

[formerly paragraph 23A:014-1 and 23A:014-2]

A. The grounds of each fair, festival and/or temporary food service site shall be well drained and so arranged to provide sufficient space for people assembled, vehicles, sanitary facilities, and equipment.

B. All tents, cars, trailers, food stands and other appurtenances connected with the fair or festival shall at all times be kept in a clean and sanitary condition; and the grounds on which the fair or festival is located shall be kept in a clean and sanitary condition and, when vacated, left in a clean and sanitary condition.

C. The grounds shall be maintained free from accumulations of refuse, health and safety hazards, and from dust wherever possible.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4737. Vector Control

[formerly paragraph 23A:014-2]

A. Insects, rodents, and other vermin shall be controlled by proper sanitary practices, extermination, or other safe and effective control methods in accord with applicable sections of Chapter 35 and Chapter 39 of this Part.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4739. Inspections/Violations/Closure

[formerly paragraph 23A:015]

A. All food operations are subject to at least daily inspections by representatives of the department.

B. Critical violations shall be corrected in accordance with §4311 of this Part.

C. Noncritical violations shall be corrected in accordance with §4313 of this Part.

D. Failure to make the necessary corrections or repeated violations will result in monetary penalties, sanctions, suspension of permit, seizure of food and/or further legal action.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

The following Table of Contents and Cross Reference listings (Item A. and Item B. respectively) are included as tools to assist staff and/or the public in locating provisions included in the preceding proposed rule which would repeal and replace Chapter XXII, Chapter XXIII, and Chapter XXIII A of the Sanitary Code. The referenced listings are as follows:

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Family Impact Statement

In compliance with the provisions of R.S. 49:972 as legislated by Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this above proposed rule on the family has been considered. The proposed rule has no known impact on the family functioning, stability nor autonomy as described in R.S. 49:972.

A public hearing on the adoption of this proposed rule change will be held on Thursday December 27, 2001 at 1:30 p.m. at 6867 Bluebonnet Boulevard, Room 230, Baton Rouge, LA. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing.

Interested persons may also submit written comments to Jody Guidry, Program Administrator, 6868 Bluebonnet Boulevard, Baton Rouge, LA 70810. He is responsible for responding to inquiries regarding this adoption. The deadline for the receipt of all written comments is 4:30 p.m. on the next day following the public hearing as scheduled.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Retail Food Establishments

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

It is anticipated that the agency will incur an implementation cost of approximately \$150,000 in FY 01-02 for required operating expenses, allocated costs, professional services and equipment costs as required at implementation. Estimated ongoing costs of approximately \$30,000 for FY 02-03 and FY03-04 include allocated costs and a reduction in operating expenses (i.e., removal of one-time implementation costs for necessary start up equipment purchases, professional service purchases and the required *Louisiana Register* publication costs).

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

Only the food safety certification section of the proposed rule shall have an anticipated effect on revenue collections. Food establishments which were previously exempted from obtaining a five year state food safety certificate will now be required to obtain a food safety certificate. An estimated additional revenue collection of \$150,000 is being projected for FY 01-02 based upon 6,000 previously exempted establishments being required to obtain a food safety certificate at \$25 each. Additional projected revenue collections of \$30,000 per year for FY 02-03 and FY 03-04 are being estimated at a 20 percent annual renewal rate based upon the issuance of approximately 1,200 certificates at \$25 each.

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

The estimated cost to each food establishment owner is \$50 to \$125 for private programs which teach the food safety course and an additional \$25 for the state food safety certificate. Estimating a maximum of 40 students per course, an additional 150 courses will probably be offered in the first year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The implementation of this rule will require approximately 6,000 owners or employees of food establishments to take a food safety certification course. This will increase employment

for food safety certification course providers but should have no effect on competition.

Madeline McAndrew
Assistant Secretary
0111#094

H. Gordon Monk
Staff Director
Legislative Office

NOTICE OF INTENT

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

Inpatient Hospital Services Medicare Part A

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt 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 proposed rule is adopted in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 10 of the 1999 Regular Session of the Louisiana Legislature contained provisions limiting the payment of co-insurance and deductibles for inpatient hospital services rendered to dually eligible Medicare/Medicaid recipients to the Medicaid maximum payment effective July 1, 1999. The provisions of Act 10 specifically excluded small rural hospitals from this limitation of payment to the Medicaid maximum. However, as a result of a budgetary shortfall, the Bureau determined it was necessary to include small rural hospitals and hospital skilled nursing units in the payment limitation established for inpatient hospital services rendered to Medicare/Medicaid recipients (*Louisiana Register*, Volume 26, Number 11). The Medicare payment was compared to the Medicaid per diem rate on file for the small rural hospital or hospital skilled nursing unit. If the Medicare payment exceeded the Medicaid rate, the claim was adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeded the Medicare payment, the claim was reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment.

Act 1485 of the 1997 Legislative Session (Rural Hospital Preservation Act) acknowledges the value of rural hospitals in the health care delivery system of the state and mandates efforts to assure the continued viability of rural hospitals.

In compliance with Act 1485 of the 1997 Legislative Session and as a result of the allocation of funds by the Legislature during the 2001 Regular Session, the bureau proposes to amend the November 2000 rule to exclude small rural hospitals and skilled nursing units located in small rural hospitals from the provisions limiting the payment of co-insurance and deductibles for inpatient hospital services rendered to dually eligible Medicare/Medicaid recipients to the Medicaid maximum payment.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no known impact on family functioning, stability, and autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amends the November 20, 2000 rule to exclude small rural hospitals and skilled nursing units located in small rural hospitals from the provisions limiting the payment of co-insurance and deductibles for inpatient hospital services rendered to dually eligible Medicare/Medicaid recipients to the Medicaid maximum payment.

Implementation of the provisions of this rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Thursday, December 27, 2001, at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Inpatient Hospital Services Medicare Part A

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

It is anticipated that the implementation of this proposed rule will increase state program costs by approximately \$557,526 for SFY 2001-02, \$1,608,000 for SFY 2002-03, and \$1,656,240 for SFY 2003-04. It is anticipated that \$120 (\$60 SGF and \$60 FED) will be expended in SFY 2001-2002 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$1,323,383 for SFY 2001-02, \$3,817,100 for SFY 2002-03, and \$3,931,613 for SFY 2003-04.

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

Implementation of this proposed rule will increase payments to small rural hospitals as a result of excluding these hospitals from the limitation of payment up to the Medicaid maximum for inpatient services provided to Medicare/Medicaid recipients by approximately \$1,880,789 for SFY 2001-02, \$5,425,100 for SFY 2002-03, and \$5,587,853 for SFY 2003-04.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

It is anticipated that this proposed rule will have no effect on competition. For those rural hospitals that are experiencing financial difficulties, this increase in reimbursement may facilitate the continued operation of these facilities and thereby have a positive effect on local employment.

Ben A. Bearden
Director
0111#085

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Medicaid Eligibility Definition of Deprivation

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt 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 proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule promulgating the state and federal requirements and procedures that govern the determination of eligibility for persons applying for benefits under Title XIX of the Social Security Act and are contained in the Medicaid Eligibility Manual (*Louisiana Register*, Volume 22, Number 5). The employment status of the family's principal wage earner (PWE) is currently considered in the determination of Medicaid eligibility. In order to receive benefits under the Low Income Families with Children (LIFC) or child-related Medically Needy Programs, a child must be deprived of the support of a parent for one of several reasons. This includes unemployment/underemployment of the parent who is the PWE.

The PWE is considered to be unemployed/underemployed when:

- 1) he/she works less than 100 hours a month, or
- 2) his/her employment exceeds 100 hours per month for a particular calendar month, but the work is intermittent and he/she worked less than 100 hours per month in the prior two calendar months and is expected to work less than 100 hours during the next calendar month. The Bureau proposes to amend Section I of the May 20, 1996 rule to repeal the current definition of deprivation based on unemployment that is used in determining Medicaid eligibility for the Low Income Families with Children and the child-related Medically Needy Programs.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. It is anticipated that this proposed rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972. This proposed rule will allow parents with minor children to receive healthcare benefits and supports that may not otherwise be available to the family.

Proposed Rule

Effective for applications taken on or after March 1, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, repeals the definition of deprivation based on unemployment contained in Section I of the May 1996 rule and establishes a new definition to be used in the determination of Medicaid eligibility for the Low Income Families with Children and the child related Medically Needy Programs. Deprivation based on unemployment shall be defined as a household having a total gross earned income that is less than 100 percent of the Federal Poverty Income Guidelines for the corresponding household size.

Implementation of the provisions of this rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Thursday, December 27, 2001 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Medicaid Eligibility
Definition of Deprivation**

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

It is anticipated that the implementation of this proposed rule will increase state program costs by approximately \$56,551 for SFY 2001-02, \$190,445 for SFY 2002-03, and \$215,362 for SFY 2003-04. It is anticipated that \$120 (\$60 SGF and \$60 FED) will be expended in SFY 2001-2002 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$134,161 for SFY 2001-02, \$452,083 for SFY 2002-03, and \$511,232 for SFY 2003-04.

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

This proposed rule will allow approximately 160-200 families with minor children to receive health care benefits and supports that may not otherwise be available to the family. Implementation of this proposed rule will increase payments to providers of Medicaid services by approximately \$190,592 for SFY 2001-02, \$642,528 for SFY 2002-03, and \$726,594 for SFY 2003-04.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

There is no known effect on competition and employment.

Ben A. Bearden
Director
0111#086

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Board of Private Investigator Examiners**

Public Comments at Board Meetings (LAC 46:LVII.113)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of R.S. 37:3505B(1), the Department of Public Safety and Corrections, Board of Private Investigator Examiners, hereby gives notice of its intent to amend Part LVII of Title 46, by adding Chapter 1, Section 113, to provide that a public comment period shall be held at or near the beginning of each board meeting, as required by R.S. 47:5(D).

This rule and regulation is an amendment to the initial rules and regulations promulgated by the Board of Private Investigator Examiners.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LVII. Private Investigator Examiners

Chapter 1. Organizational and General Provisions

§113. Public Comments at Board Meetings

A. A public comment period shall be held at or near the beginning of each board meeting. Persons desiring to present public comments shall notify the board chairman or the executive director no later than the beginning of the meeting. However, to assure that an opportunity is afforded all persons who desire to make public comments, the chairman shall inquire at the beginning of the meeting if there are additional persons who wish to comment. The chairman shall allot the time available for the public comments in an equitable manner among those persons desiring to comment, limiting each person to a maximum of three minutes, with the total comment period not to exceed thirty minutes. Each person making public comments shall identify himself and the group, organization or company he represents, if any.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:5(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 28:

Comments should be forwarded to Charlene Mora, Chairman, State Board of Private Investigator Examiners, 2051 Silverside Drive, Suite 190, Baton Rouge, LA 70808. Written comments will be accepted through the close of business on December 10, 2001.

A copy of these rules may be obtained from the Louisiana State Board of Private Investigator Examiners, 2051 Silverside Drive, Suite 190, Baton Rouge, LA 70808, telephone number (225) 763-3556.

Charlene Mora
Chairman

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

RULE TITLE: Public Comments at Board Meetings

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

There will be no implementation costs for this amendment.

The rule establishes procedures for allowing public comments at Board meetings, as required by La. R.S. 42:5D.

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

There will be no effect on competition and employment.

Celia R. Cangelosi
Attorney
0111#039

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Gaming Control Board**

Electronic Cards, General Credit Provisions
(LAC 42:III.201)

The Louisiana Gaming Control Board hereby gives notice that it intends to adopt LAC 42:III.201 in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 42

LOUISIANA GAMING

Part III. Gaming Control Board

Chapter 2. Electronic Cards

§201. General Credit Provisions

A. No Casino Operator, Casino Manager or licensee shall issue electronic cards or smart cards that have the capability of allowing patrons to access any line of credit or account, debit an account at any bank, financial institution, credit card company or similar entity, obtain credit through a credit agreement with any bank, financial institution, credit card company or similar entity or allow patrons to incur debt in any manner not provided in the respective Casino Operator's, Casino Manager's or licensee's internal controls as approved by the division.

B. All electronic cards or smart cards issued by the Casino Operator, Casino Manager or any licensee for the purpose of wagering shall be prepaid with a fixed dollar amount that shall not be susceptible of being increased by patrons without purchasing additional value in a manner consistent with the respective Casino Operator's, Casino Manager's or licensee's internal controls as approved by the division.

C. Electronic cards or smart cards issued by the Casino Operator, Casino Manager or any licensee shall be used only for wagering at the respective Casino Operator's, or licensee's property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 28:

Family Impact Statement

Pursuant to the provisions of R.S. 49:953.A, the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of adopting LAC 42:III.201.

It is accordingly concluded that adopting LAC 42:III.201 would appear to have a positive yet inestimable impact on the following:

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

All interested persons may contact Tom Warner, Attorney General's Gaming Division, telephone (225) 342-2465, and may submit comments relative to these proposed rules, through December 10, 2001, to 339 Florida Street, Suite 500, Baton Rouge, LA 70801.

Hillary J. Crain
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Electronic Cards,**

General Credit Provisions

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

It is anticipated that there will be no direct implementation costs or savings to state or local government units.

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

No effect on revenue collections is anticipated.

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

No costs to directly affected persons are expected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is estimated.

Hillary J. Crain
Chairman
0111#036

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Office of State Police Safety Enforcement Section

Motor Vehicle Inspection/Tint Exemption
(LAC 55:III.813)

The Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, in accordance with R.S. 49:950 et seq. and R.S. 32:361.3 gives notice of its intent to amend its rules regulating vehicle inspections by

providing the procedure for obtaining an exemption to the window tint requirements.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 8. Motor Vehicle Inspection

Subchapter B. Safety Inspections

§813. Required Equipment

A. - T.7.c. ...

d. The following non-exclusive list of persons, or entities, shall be eligible for a security exemption from the provisions of R.S. 32:361.1:

- i. private investigators;
- ii. bail enforcement agents;
- iii. railroad police officers;
- iv. Louisiana peace officers, P.O.S.T. certified and sworn;

v. elected or appointed public officials;

vi. businesses, companies, or individuals that, on a regular recurring basis, either sell, or transport high-valued equipment that, by its very nature, has a higher than usual likelihood of being stolen; and

vii. any other individual, business, company, corporation, or agency with the need for added concealment of persons or property from public view.

e. Security Exemption Criteria

i. Vehicle must be:

(a). properly licensed, insured and registered, all in Louisiana; and

(b). owned or leased by an applicant or applying business.

f. Security Exemption Affidavit

i. An individual or business seeking exemption to window tint restrictions can obtain a Security Exemption Affidavit form at Safety Enforcement Headquarters, any Safety Enforcement field office or via the World Wide Web by accessing www.LSP.org.

ii. A listing of Safety Enforcement field office addresses can be obtained by accessing www.doa.state.la.us/services.

iii. The Security Exemption Affidavit must be complete, sworn and subscribed in the presence of a Notary Public. The Security Exemption Affidavit must include:

(a) applicant's name, or company or business name, if applicable;

(b) address, city, state and zip code;

(c) vehicle description (year, make, model);

(d) vehicle identification number (VIN);

(e) vehicle license plate number;

(f) need, reason or explanation for exemption;

and

(g) signature of applicant or company official.

g. Security Exemption Process

i. A completed Security Exemption Affidavit must be mailed to the Safety Enforcement headquarters office, P.O. Box 66614, Mail Slip 48, Baton Rouge, LA 70896-6614. Security Exemption Affidavits will be reviewed and subsequently approved or disapproved by the Safety Enforcement Section Commander, or his designee.

ii. Approved Security Exemption Affidavits will be returned to applicant by U.S. Mail.

iii. An applicant whose Security Exemption Affidavit is disapproved will receive written notification of that decision by U.S. Mail. The correspondence will outline the reason(s) for denial. An applicant may write a letter of rebuttal germane to the reason(s) for denial. Letters of rebuttal will be taken under advisement. Once a final determination of eligibility has been made, an applicant has no further recourse. The Department of Public Safety and Corrections may approve, disapprove, cancel or revoke exemptions for window tint restrictions as deemed appropriate.

U. - EE.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:361.3.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:2428 (December 1999); amended LR 28:

Interested persons may submit written comments to Paul Schexnayder, P.O. Box 66614, Baton Rouge, LA 70896. Written comments will be accepted through December 15, 2001.

Family Impact Statement

1. The Effect of these Rules on the Stability of the Family. These rules will have no effect on the stability of the family.

2. The Effect of these Rules on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. These rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of these Rules on the Functioning of the Family. These rules will have no effect on the functioning of the family.

4. The Effect of these Rules on Family Earnings and Family Budget. These rules will have no effect on family earning and family budget.

5. The Effect of these Rules on the Behavior and Personal Responsibility of Children. These rules will have no effect on the behavior and personal responsibility of children

6. The Effect of these Rules on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. These rules will have no effect on the ability of the family or local government to perform the function as contained in the proposed rules.

Jerry Jones
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Motor Vehicle Inspection C Tint Exemption

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

There should be no additional costs incurred nor savings realized as a result of the adoption of these rules.

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

There should be no effect on revenue as a result of these rules.

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

There should be no costs or economic benefits to any person or group.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment.

Jerry Jones
Undersecretary
0111#046

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Office of Alcohol and Tobacco Control

Class A General Requirements
(LAC 55:VII.315)

Under the authority of R.S. 26:71.1(1)(h) and 271.2(1)(h) and in accordance with Act 1188 of the 2001 Regular Legislative Session and the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, proposes to repeal the current LAC 55:VII.315, as it is obsolete, and enact this regulation to provide for the requirements related to the number and location of public restrooms to be used in conjunction with the licensed premises of each Class A CGeneral retail permit.

Title 55

PUBLIC SAFETY

Part VII. Alcohol and Tobacco Control

Chapter 3. Liquor Credit Regulations

§315. Qualifications for Class A CGeneral Permits

A. A Class A CGeneral retail permit will only be issued to establishments that have public restroom facilities.

1. The restroom facilities must conform to the current regulations as set forth in the Louisiana State Plumbing Code, Chapter XIV of the Louisiana Sanitary Code.

2. A Class A CGeneral permit applicant may not use restrooms located in any other premises, regardless of ownership, to meet the requirement of having their own public restroom facilities pursuant to R.S. 26:71.1(1)(h) and 271.2(1)(h).

3. Failure to meet the requirements of this regulation shall result in the denial, suspension, or revocation of the retail alcohol permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:71.1(1)(h) and 271.2(1)(h).

HISTORICAL NOTE: Adopted by the Department of Public Safety, Office of Alcoholic Beverage Control, 1973, filed at the Office of the State Register, 1974, amended by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 28:

Family Impact Statement Summary

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the notice of intent in the Louisiana Register. A copy of this statement will also be provided to our legislative oversight committees.

1. The Effect on the Stability of the Family. Implementation of this proposed rule will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. Implementation of this proposed rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Implementation of this proposed rule will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Implementation of this proposed rule will have no effect on the earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of this proposed rule will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. Implementation of this proposed rule will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Melissa Gregg, Attorney, Office of Alcohol and Tobacco Control, Department of Revenue, 8549 United Plaza Blvd., Suite 220, Baton Rouge, LA 70809, or by fax to (225) 925-3975. All comments must be submitted by 4:30 p.m., Thursday, December 27, 2001. A public hearing will be held on Friday, December 28, 2001 at 10 a.m. at 8549 United Plaza Blvd., Suite 220, Baton Rouge, LA. 70809.

Murphy J. Painter
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Class A General Requirements**

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

Implementation of this proposed rule, which provides that Class A-General retail liquor and beer permits will only be issued to establishments that have public restroom facilities that comply with the requirements of the Louisiana State Plumbing Code, Chapter XIV of the Louisiana Sanitary Code, will have minimal impact on the agency's costs.

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

Adoption of this proposed rule will have no impact on revenue collections.

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

Establishments with Class A-General retail liquor and beer permits will be required to provide restroom facilities that conform to the Louisiana State Plumbing Code, Chapter XIV of the Louisiana Sanitary Code. Most permit holders already comply with these standards. Establishments that do not meet the standards will incur the additional costs to bring their restroom facilities into compliance.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation should have no effect on competition or employment.

Murphy J. Painter
Commissioner
0111#048

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Insufficient Funds Checks (LAC 61:I.4908)

Under the authority of R.S. 47:1511 and 1576 and in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., The Department of Revenue, Policy Services Division, proposes to adopt LAC 61:I.4908 pertaining to insufficient funds checks.

Revised Statute 47:1576, entitled "Remittance of tax under protest; suits to recover," provides a mechanism for taxpayers to make tax payments under protest and then file suit within 30 days to recover the payment. This proposed regulation provides that when tax payments made under protest are returned for insufficient funds it will be treated as a failure to remit taxes.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 49. Tax Collection

§4908. Insufficient funds checks

A. In the event a check used to make a remittance of tax under protest pursuant to R.S. 47:1576 is returned unpaid by the bank on which it is drawn for any reason related to the account on which the check is written, such shall constitute a failure to remit taxes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1576.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 28:

Interested persons may submit data, views, or arguments, in writing to Susan Dunham, Assistant Secretary, Office of Legal Affairs, Department of Revenue, P.O. Box 4064, Baton Rouge, LA 70821-4064 or by fax to (225) 219-2090. All comments must be submitted by 4:30 p.m., Thursday, December 27, 2001. A public hearing will be held on Friday, December 28, 2001, at 10:00 a.m. in the Department of Revenue Conference Room 245 at 617 North 3rd Street, Baton Rouge, LA 70802-5428.

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the notice of intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of this proposed rule will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of this proposed rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of this proposed rule will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of this proposed rule will have no effect on the earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of this proposed rule will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of this proposed rule will have no effect on the ability of the family or a local government to perform this function.

Cynthia Bridges
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Insufficient Funds Checks**

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

Implementation of this proposed regulation, which establishes the guideline for handling tax payments under protest that are returned for insufficient funds, will have no implementation costs or savings to state or local governmental units. This proposed regulation acts to clarify the department's current policy.

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

There should be no effect on revenue collections of state or local governmental units as a result of the proposed regulation. These regulations are meant to clarify the current practices of the department.

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

Implementation of this proposed regulation should have no impact on the costs or economic benefits of taxpayers who make tax payments under protest that are returned for insufficient funds.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation should have no effect on competition or employment.

Cynthia Bridges
Secretary
0111#047

H. Gordon Monk
Staff Director
Legislative Fiscal Office

**NOTICE OF INTENT
Department of Revenue
Policy Services Division**

Issuance and Cancellation of a Lien; Fees (LAC 61:I.5302)

Under the authority of R.S. 47:1511, R.S. 47:1577 and R.S. 47:1578 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:I.5302, the rules and regulations governing the issuance of liens and the fees associated with recording and canceling liens.

The Secretary of Revenue is authorized by R.S. 47:1511, R.S. 47:1577 and R.S. 47:1578 to adopt reasonable rules and regulations relating to the issuance and cancellation of tax liens and the fees assessed to taxpayers for its recordation and cancellation. Because a lien may be filed in the parish mortgage records any time after a tax becomes due, whether assessed or not, and regardless of whether or not then payable, LAC 61:I.5302 is proposed to establish guidelines for filing and canceling a lien, as well as the amount to assess taxpayers for its recordation and cancellation.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 53. Miscellaneous Fees

§5302. Issuance and Cancellation of a Lien; Fees

A. A tax lien shall be filed on liabilities when the tax due involves a jeopardy assessment pursuant to R.S. 47:1566.

B. A tax lien may be filed on liabilities when any of the following conditions exist:

1. when liabilities reach warrant for distraint status;
2. information is received indicating the taxpayer is on the verge of bankruptcy;
3. a corporation is in the process of dissolving or withdrawing from the state;
4. the filing history of the taxpayer indicates an effort to avoid the payment of taxes;
5. information indicates that the taxpayer is in the process of selling movable or immovable property;
6. warrants are determined currently not collectible; or
7. a formal installment agreement has been negotiated with the taxpayer.

C. The secretary may authorize the release of a lien subject to the following terms and conditions:

1. when the tax, penalty, fees, or interest secured by a recorded lien have been paid;
2. when the taxpayer executes a surety bond in favor of the secretary in an amount not less than one and one-half times the amount of the obligation due, including penalties, interest, and other costs incurred. The surety bond must be issued by a surety company qualified to do business in Louisiana;
3. when the lien on the taxpayer's remaining real property is valued at not less than the amount of the remaining tax obligation, including all penalties, interest, and other costs incurred, plus the amount of all prior liens on the released property. This provision is subject to approval by the Board of Tax Appeals;
4. when the amount paid to the secretary in partial satisfaction of the liability is not less than the value of the state of Louisiana's interest in the part of the property released. This provision is subject to approval by the Board of Tax Appeals.

D. The secretary with the approval of two assistant secretaries and the Board of Tax Appeals may compromise any judgments for taxes of five hundred thousand dollars or less exclusive of interest and penalty, including assessments for such amounts that are equivalent to judgments, when any of the following conditions exist:

1. there is serious doubt as to the collectibility of the outstanding judgment.

2. there is serious doubt as to the taxpayer's liability for the outstanding judgment.

3. the administration and collection costs involved would exceed the amount of the outstanding liability.

E. The secretary may, with the approval of the Board of Tax Appeals, upon making a record of his reasons, waive, reduce, or compromise individual income tax, penalties, interest, or other amounts.

F. The department shall assess a fee against the taxpayer for the filing of a tax lien and the cancellation of a lien. The amount of the fee to be assessed against the taxpayer shall be determined according to the amount charged the department by the parish in which the lien is filed. In the event a lien is filed in more than one parish for the same taxes, each lien shall be treated separately and the total charges per parish for the liens shall be assessed against the taxpayer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511, R.S. 47:1577, and R.S. 47: 1578.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of the Secretary, LR 28:

Family Impact Statement

The proposed adoption of LAC 61:I.5302, should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically:

1. The implementation of this proposed rule will have no known or foreseeable effect on the stability of the family.

2. The implementation of this proposed rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.

3. The implementation of this proposed rule will have no known or foreseeable effect on the functioning of the family.

4. The implementation of this proposed rule will have no known or foreseeable effect on family earnings and family budget.

5. The implementation of this proposed rule will have no known or foreseeable effect on the behavior and personal responsibility of children.

6. The implementation of this proposed rule will have no known or foreseeable effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Susan L. Dunham, Assistant Secretary, Office of Legal Affairs, 617 North Third Street, Baton Rouge, LA 70802-5428. All comments must be submitted by 4:30, December 26, 2001. A public hearing will be held on December 27, 2001, at 1:30 p.m. at 617 North Third Street, Baton Rouge, LA 70802-5428.

Cynthia Bridges
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Issuance and Cancellation of a Lien; Fees

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

Implementation of this proposed regulation, which establishes the guidelines for the issuance and cancellation of a

tax lien and for the fees associated with recording and canceling the lien, will have no implementation costs or savings to state or local governmental units. This proposed regulation acts to clarify the department's current policy.

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

There should be no effect on revenue collections of state or local governmental units as a result of this proposed regulation. All fees mentioned in this rule are already being imposed on taxpayers. This proposed regulation acts to clarify the department's current policy.

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

There should be no costs and/or economic benefits to directly affected persons or nongovernmental groups as a result of the proposed regulation. All fees mentioned in this rule are already being imposed on taxpayers. This proposed regulation acts to clarify the department's current policy.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation should have no effect on competition or employment.

Cynthia Bridges
Secretary
0111#040

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Sales and Use Tax Definition of Person (LAC 61:I.4301)

Under the authority of R.S. 47:301 and R.S. 47:1511 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4301 relative to the definition of person for sales tax purposes.

These amendments provide guidance concerning the exclusion from the definition of person for all or some of the purchases made by the entities listed in R.S. 47:301(8). These entities include governmental agencies, the Society of the Little Sisters of the Poor, independent institutions of higher education, and churches and synagogues. While the first two entities are excluded from the definition of person for all of their purchases, independent institutions of higher education and churches and synagogues have a limited exclusion from the definition of person. Independent institutions of higher education are excluded from the definition for their purchases directly related to the educational mission of the institution while churches and synagogues are excluded from the definition only for their purchases of bibles, songbooks, and religious instruction literature.

In some instances, the entities specified in R.S. 47:301(8) making the types of purchases that qualify them for the exclusion from the definition of person may act through an agent or employee in making the purchase. Two common situations when this occurs are purchases made by government contractors and the renting of hotel rooms to government employees. The amendments to this rule list the circumstances under which purchases by immovable property contractors and the renting of hotel rooms by

employees are equivalent to direct acquisitions by the entity excluded from the definition of person.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 43. Sales and Use Tax

§4301. Definitions

A. - C. ...

* * *

Person

a. The term *person* as used in this Chapter includes:

- i. natural persons; and
- ii. artificial persons, including, but not limited to, corporations, limited liability companies, estates, trusts, business trusts, syndicates, cities and parishes, parishes, municipalities, this state, any district or political subdivision, department or division thereof, any board, agency, or other instrumentality thereof, acting unilaterally or as a group or combination, as well as receivers, referees in bankruptcy, agricultural associations, labor unions, firms, copartnerships, partnerships in commendam, registered limited liability partnerships, joint ventures, associations, singularly or in the plural, who have the legal right or duty, whether explicit, implied or assumed, to perform any of the transactions described in this Chapter.

b. A natural or artificial person's classification as exempt under any other tax statute has no effect on that person's status under the sales tax law. For example, a religious, charitable, educational, scientific, civic, social or fraternal organization, including hospitals and similar institutions, may be statutorily exempted from other taxes but remain classified as persons for sales tax purposes.

c. R.S. 47:301(8) provides exclusions from the definition of person for purchases made by certain entities. Although these entities are not responsible for paying sales and use taxes on some or all of their purchases, they must collect and remit sales tax on their taxable sales transactions.

i. The two entities granted exclusions from paying state and local sales and use tax on all of their purchases are:

(a) the state of Louisiana, its parishes, its municipalities, its special districts, its political subdivisions, and any other agencies, boards, commissions, or instrumentalities of the state or its political subdivisions;

(b) the Society of the Little Sisters of the Poor. Before claiming exemptions, the Society must obtain a certificate of authorization from the Sales Tax Division of the Department of Revenue.

ii. The two entities granted exclusions from paying sales and use tax on some of their purchases are:

(a) regionally accredited independent institutions of higher education that are members of the Louisiana Association of Independent Colleges and Universities. Purchases, leases, or rentals of tangible personal property or purchases of taxable services by these institutions that are directly related to the educational missions of eligible institutions are excluded from state sales and use tax. Purchases, leases, and rentals directly related to the educational mission of the eligible institution are interpreted broadly to include those transactions required to construct, maintain, or supply classrooms, libraries,

laboratories, dormitories, athletic facilities, and administrative facilities. Examples include purchases of supplies, equipment, utilities, leases or rentals of equipment, and repair services to university property;

(b) churches and synagogues exempt under Internal Revenue Code Section 501(c)(3) are excluded from paying state and local sales and use tax on purchases of bibles, songbooks, or literature used for religious instruction classes. Eligible institutions must obtain certificates of authorization from the Sales Tax Division of the Department of Revenue.

d. The exclusion from the definition of person is granted only for purchases made by these entities on their own behalf. Representatives of these entities making purchases for the entity may also be excluded from the definition of person when their purchases are deemed the equivalent of an acquisition by the entity itself. The most common examples of representatives purchasing on behalf of these entities are:

i. mandataries (agents) purchasing materials or leasing or renting equipment for immovable property construction contracts; and

ii. employees purchasing lodging services while traveling on official business of the entity.

e. The following elements establish an immovable property contractor's purchases as the legal equivalent of a R.S. 47:301(8) entity's purchases so as to exclude the transactions from sales and use tax. Additionally, due to the federal government's immunity from state taxation under The Supremacy Clause, U.S. Const. Art. VI, §2, federal contractors satisfying the following criteria are also entitled to the exclusion from the definition of person. The following criteria assume that the R.S. 47:301(8) entity is an immovable property contractor with an agency agreement with a government department or agency.

i. The government department or agency must acquire title to the property at the time of purchase. Except as otherwise provided in the contract between the parties, the risk of loss must be with the governmental entity.

ii. There must be a signed agreement authorizing the contractor to act as purchasing agent for the entity. The department's form, Designation of Construction Contractor as Agent of a Governmental Entity, may be used for this purpose, or a custom agreement may be substituted if it includes all terms and conditions listed in the form prepared by the department. The form is available at any department office and through the department's web site at: www.rev.state.la.us. Copies of the signed agreement must be made available to tax authorities and vendors upon request. Purchases by the designated agent will be recognized as those of the government entity if all parties to the contract strictly follow the terms of the agreement.

f. The following elements establish when the renting of a hotel room to an employee of a R.S. 47:301(8) entity is legally equivalent to the entity's purchase of the service. Additionally, due to the federal government's immunity from state taxation under The Supremacy Clause, U.S. Const. Art. VI, §2, federal employees are also entitled to the exclusion from the definition of person when renting hotel rooms in the state. Since most purchases of lodging services for persons excluded by R.S. 47:301(8) are made by

government employees, the following criteria are drafted from the perspective of those entities:

i. Renting a hotel room to an employee of the United States government, the state of Louisiana, or a political subdivision of the state of Louisiana who is traveling on official business is considered a sale of a service to the government employer regardless of the form of payment to the hotel, provided the lodging services are obtained by the employee at the direction of the employer and accounted to and reimbursed by the government agency.

ii. The exclusion must be documented in one of the following ways:

(a). with a copy of the employee's written travel orders certifying that the government employer will reimburse the actual lodging expenses incurred. The travel orders must be on government letterhead or forms and signed by an authorized representative of the government entity other than the employee engaging the hotel services. The orders must state that the employee is authorized to secure a room for a specific time period at a specific hotel or at a hotel within a defined travel area;

(b). if written travel orders are unavailable or if the travel orders are incomplete or insufficient to satisfy all of the requirements in §4301.C.Person.f.ii.(a), an exemption certificate signed by the employee and the authorized agent of the governmental agency other than the employee will certify the transaction's exempt status. The hotel can accept the department's certificate entitled Certificate of Governmental Exemption from the Payment of Hotel Lodging Taxes or one used by federal agencies, provided the form states that the employee's expenses are reimbursed by the employer in the actual amount incurred.

iii. Hotels must retain this documentation to support a sales tax deduction for room rentals to government employees on official business. Failure to do so will cause the deduction to be disallowed unless the hotel can provide competent independent evidence to certify the exemption's validity. The exemption will also be disallowed if it is determined that the documentation was obtained fraudulently or that the hotel knew the documentation was invalid when the employee presented it.

iv. This exclusion is not allowed on hotel room charges incurred by other nations, other states and their political subdivisions, or their employees.

* * *

AUTHORITY NOTE: Promulgated in Accordance with R.S. 47:301 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Sales Tax Division, LR 21:957 (September 1995), LR 22:855 (September 1996), amended by the Department of Revenue, Policy Services Division, LR 28:1703 (October 2001), LR 28:

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 15409, Baton Rouge, LA 70895-5409 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday, December 26, 2001. A public hearing will be held on Friday, December 28, 2001, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, Louisiana.

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the notice of intent in the Louisiana Register. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of this proposed rule will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of this proposed rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of this proposed rule will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of this proposed rule will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of this proposed rule will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of this proposed rule will have no effect on the ability of the family or a local government to perform this function.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Sales and Use Tax Definition of Person

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

Implementation of this proposed rule will have no impact on state or local governmental unit's cost. This proposal would furnish greater detail about the definition of a person for sales tax purposes and the exclusions from that definition. This is being done at the request of taxpayers who need assistance in developing procedures to document the exclusions that are granted in R.S. 47:301(8). This rule only attempts to clarify the Department's current policy.

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

There should be no effect on revenue collections of state or local governmental units as a result of this proposed regulation.

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

This proposed regulation would have no costs or economic benefits to the Society of the Little Sisters of the Poor, independent institutions of higher education that are members of the Louisiana Association of Independent Colleges and Universities, churches and synagogues exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code, agents making purchases for government agencies, and all other entities defined as persons in R.S. 47:301(8).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

This proposed regulation should have no effect on competition or employment.

Cynthia Bridges
Secretary
0111#041

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Community Services**

**Child Protection Investigation Report Acceptance
(LAC 67:V.1301)**

The Department of Social Services, Office of Community Services, proposes to amend the Rule entitled "Child Protection Investigation Report Acceptance" published in the *Louisiana Register* Volume 25, Number 9, September 20, 1999, page 1654.

This proposed Rule regards the receipt of reports of abuse/neglect in family day care homes by the Office of Community Services. Reports received and with no allegations of culpability in the abuse/neglect by parents or legal custodians will be assigned a level of risk based on the information provided by the reporter and referred to law enforcement and, when appropriate to the case circumstances, to other agencies.

Title 67

SOCIAL SERVICES

Part V. Office of Community Services

Subpart 3. Child Protective Services

Chapter 13. Intake

**§1301. Child Protection Investigation Report
Acceptance**

A. - B. ...

C. Response Time. The reports classified as presenting low risk of immediate substantial harm alleged will be assigned a response time of from 24 hours up to 5 calendar days from the date the report was received.

D. - G. ...

H. Reports of abuse/neglect in family day care homes with no allegations of culpability in the abuse/neglect by parents or legal custodians will be assigned a level of risk based on the information provided by the reporter and referred to law enforcement and, when appropriate to the case circumstances, other agencies.

AUTHORITY NOTE: Promulgated in accordance with Articles 610 and 612 G. of the Louisiana Children's Code and R.S. 46:1441.6.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:387 (April 1991), amended LR 18:1246 (November 1992), repromulgated LR 19:165 (February 1993), LR 19:503 (April 1993), amended LR 25:1654 (September 1999), LR 28:

Interested persons may submit written comments for forty days from the date of this publication to Carmen D. Weisner, Assistant Secretary, P.O. Box 3318, Baton Rouge, LA 70821. She is responsible for responding to inquiries.

Family Impact Statement

The Effect on the Stability of the Family. The rule would not change either the parents' or the agency's responsibility

to assure the protection of children and sustain the integrity of the family.

The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. Parents will continue to exercise the authority and rights to educate and supervise their children as they wish provided that they take the actions necessary to protect their children in cases where a family day care home provider has abused or neglected the children or placed them at risk of imminent, substantial harm. In the case of the latter, the agency would assess the need to intervene to fulfill its mandate to protect the safety and well-being of the children when their parents have failed to do so.

The Effect on the Functioning of the Family. In the event that the family fails to perform its roles to protect and nurture children's health and well-being, the rule would not preclude the agency from intervening to improve the family's ability to protect and nurture.

The Effect on Family Earnings and Family Budget. If the act of protecting a child involves placement in another day care setting or direct parental care, parents might incur increased family expenditures or might have to curtail time spent in employment decreasing family income.

The Effect on the Behavior and Personal Responsibility of Children. Children's behavior and personal development will not be compromised by the rule.

The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. Families already assume primary responsibility for the protection of their children from harm; the rule would encourage this role. The agency currently assumes and would continue to assume this responsibility when the child's legal caretaker fails to fulfill it.

Gwendolyn P. Hamilton
Secretary

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

**RULE TITLE: Child Protection Investigation Report
Acceptance**

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

The only cost in FY 01/02 will be the \$400 to print manual material.

There will be no savings as a result of the revision to agency policy.

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

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

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

There will not be any costs or economic benefits to directly affected persons or nongovernmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

There will be no effect on competition and employment.

Debra Johnson
Budget Manager
0111#068

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Office of Family Support

Child Care Assistance Program Providers
(LAC 67:III.5107)

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 12, the Child Care Assistance Program.

Although a previous Notice of Intent proposed changes at §5107.E, the agency reconsidered some of the amendments and decided not to include these in the final rule (published in this issue). Therefore, the agency now proposes to amend §5107 to expand who cannot be considered an eligible child care provider, to further clarify when a provider may be terminated or permanently terminated as a CCAP eligible provider, and to provide information concerning who provides the periodic listing of unsafe children's products.

Title 67

SOCIAL SERVICES

Part III. Office Of Family Support

Subpart 12. Child Care Assistance

Chapter 51. Child Care Assistance

Subchapter B. Child Care Assistance Program

§5107. Child Care Providers

A. - B.1.e. ...

f. use only safe children's products and remove from the premises any products which are declared unsafe and recalled as required by R.S.46:2701-2711. (CCAP Family Child Day Care Home providers will receive periodic listings of unsafe and recalled children's products from the Consumer Protection section of the Attorney General, Public Protection Division).

A.2. - E. ...

1. A Family Child Day Care Home or an In-Home provider may be immediately and permanently terminated as a CCAP eligible provider if:

a. the agency determines that a condition exists which threatens the physical or emotional health or safety of any child in care;

b. the provider violates the terms of the provider agreement; or

c. the criminal background check shows that the provider has been convicted of, or pled no contest to, a crime listed in R.S. 15:587.1.C.

2. A Family Child Day Care Home provider may be permanently terminated as a CCAP eligible provider if the provider is verified to have more than six children in his/her care.

3. Other situations listed in policy or on the provider agreement may lead to the provider's termination as a CCAP eligible provider. These situations include but are not limited to:

a. a Family Child Day Care Home provider's failure to pass the second inspection by the Fire Marshal;

b. a criminal background check response showing that an adult living at a Family Child Day Care Home provider's residence, or working in the provider's home or on his home property, has been convicted of, or pled no contest to, a crime listed in R.S.15:587.1.C;

c. a provider's failure to timely return all requested forms, fees, etc. at renewal;

d. a Class A Center whose license is not renewed;

e. a school child care provider if the school no longer meets the BESE regulations.

F. - G. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 28:

Family Impact Statement

This rule will have no impact on the stability and functioning of the family or on parental rights and will have no impact on the budget of the affected family.

Interested persons may submit written comments by December 28, 2001, to Ann S. Williamson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, Louisiana, 70804-9065. She is responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on December 28, 2001, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (504) 342-4120 (Voice and TDD).

Gwendolyn P. Hamilton
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Child Care Assistance Program Providers

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

This rule change primarily affects administrative policy regarding termination of a Family Child Day Care Home Provider. The Child Care Assistance Program (CCAP) costs are restricted by the amount of the federal Child Care and Development Block Grant; no increase in spending is anticipated. The immediate implementation cost to state government is the cost of publishing the rule and any related policy revisions. This cost is minimal and funds for such actions are included in the program budget. There are no costs or savings to local governmental units.

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

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

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

The proposed rule results in no new costs or benefits to any persons or nongovernmental groups. It may, however, allow some providers to continue to be eligible for CCAP payments who would have previously been terminated; benefits would depend on the number of CCAP-eligible children being cared for in the home.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

The proposed actions will have no impact on competition and employment.

Ann S. Williamson
Assistant Secretary
0111#067

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

**State Tax Refund Intercept Increase
(LAC 67:III.2529)**

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 4, Support Enforcement Services (SES), the child support enforcement program.

Act 71 of the 2001 Regular Session Legislature authorized an increase in the fee for income tax refund offsets from \$2.75 to \$4 for each state tax refund offset of \$5 or more intercepted from the noncustodial parent for delinquent support.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 4. Support Enforcement Services

Chapter 25. Support Enforcement

Subchapter I. Tax Refund Offset

§2529. State Tax Refunds

A. ...

B. SES will charge a \$4 fee to non-FITAP custodial parents for each successful state tax refund offset of \$5 or more. This fee will reimburse SES for intercept fees paid to the Department of Revenue and Taxation. The fee charged for the state tax offset will be deducted from the child support checks issued by SES. The noncustodial parent will be given credit for the amount of the check before the fee deduction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:299.1 et seq., 45 CFR 303.102, P.L. 104-193 and P.L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:916 (November 1984), amended by the Department of Social Services, Office of Family Support, LR 17:388 (April 1991), LR 27:81 (January 2001), LR 28:

Family Impact Statement

The proposed rule will have no effect on the stability and functioning of the family.

A public hearing on the proposed rule will be held on December 28, 2001, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, Louisiana beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code 225-342-4120 (Voice and TDD).

Interested persons may submit written comments on the proposed rule by December 28, 2001, to Ann S. Williamson,

Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA 70804-9065.

Gwendolyn P. Hamilton
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: State Tax Refund Intercept Increase**

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

The only immediate cost to state government is the minimal cost of printing policy revisions, publishing the rule, and programming; these costs are routinely included in the agency's annual budget. No savings to the state is anticipated, and there are no anticipated costs or savings to local governmental units.

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

This rule will result in an increase of \$1.25 per case for an estimated 13,985 cases intercepted for state tax refund offset at an estimated total increase of \$17,481 for Department of Revenue and Taxation.

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

Custodial parents will be impacted minimally due to the slight increase since the Department of Revenue will subtract this fee from the state tax intercept amount.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition and employment.

Ann S. Williamson
Assistant Secretary
0111#066

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

**Temporary Assistance for Needy Families
(TANF) Initiatives (LAC 67:III.5505-5547)**

The Department of Social Services, Office of Family Support, proposes to amend LAC 67:III, Subpart 15, by adopting §§5505 through 5547.

Pursuant to Act 12 of the 2001 Regular Session of the Louisiana Legislature, the Office of Family Support will provide funding to various departments of the state of Louisiana and other entities for a variety of programs intended to further the goals and intentions of the federal Temporary Assistance for Needy Families (TANF) Block Grant. All programs have been effected by several Declarations of Emergency. Section 5505 was effected by an Emergency Rule signed August 20, 2001; §§5507 through 5531 were effected August 30, 2001; §§5533 through 5545 were effected September 25, 2001; and §5547 was effected September 28, 2001.

Title 67
SOCIAL SERVICES

Part III. Office of Family Support

**Subpart 15. Temporary Assistance to Needy Families
(TANF) Initiatives**

Chapter 55. TANF Initiatives

§5505. Nonpublic School Early Childhood Development Program

A. OFS shall enter into a Memorandum of Understanding with the Governor's Office, Office of Community Programs, to provide early childhood education to certain four-year-olds in non-public schools.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families by placing children in learning environments at the pre-school level to foster an interest in learning, increase literacy levels, and increase the likelihood of developing responsible behavior.

C. Eligibility for services is limited to at-risk families in which the child is one year younger than the eligible age for public school kindergarten and is eligible to receive free or reduced school lunch meals pursuant to the Federal Child Nutrition Program as documented by a completed application for such meals, whether or not such meals are sought.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5507. Adult Education, Basic Skills Training, Job Skills Training, and Retention Services Program

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Workforce Commission to provide adult education, basic skills training, jobs skills training, and retention services to low income families. Employed participants will be provided child care and transportation services. Unemployed participants will be provided short-term child care and transportation services.

B. These services meet the TANF goal to end the dependence of needy parents on government benefits by providing education, training, and employment-related services to low income families in order to promote job preparation, work, and marriage.

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), Supplemental Security Income (SSI) or Free or Reduced School Lunch, or to a family which has earned income at or below 200 percent of the federal poverty level. Families who lose FITAP eligibility because of earned income are considered needy for a period of one year following the loss of cash assistance. Within the needy family, only the parent is eligible to participate.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5509. Domestic Violence Services

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Office of Women's Services to provide for services pertaining to domestic violence including rural outreach, services to children in shelters, and training of law enforcement and DSS personnel.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families.

C. Eligibility for services is not limited to needy families. Eligibility for services is limited to children and/or their parents or caretaker relatives who are victims of domestic violence.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5511. Micro-Enterprise Development

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Office of Women's Services to provide assistance to low-income families who wish to start their own businesses.

B. These services meet the TANF goal to end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage. This goal will be accomplished by providing assistance to low-income families through the development of comprehensive micro-enterprise development opportunities as a strategy for moving parents into self-sufficiency.

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), Supplemental Security Insurance (SSI) or Free or Reduced School Lunch. Only the parent within the needy family is eligible to participate.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5513. Project Return

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Department of Public Safety and Corrections to fund transitional services to former offenders.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families by reducing the rate of recidivism. This goal will be accomplished by providing nonmedical substance abuse treatment and counseling, GED and academic enhancement, training in conflict resolution and communication skills, job training, and job placement assistance.

C. Eligibility for services is limited to parents or caretaker relatives of minor children.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5515. Job Skills Program

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Department of Public Safety and Corrections to fund services to enhance basic academic skills of state adult inmates through the Job Skills and Education Program, a computer-based instructional system.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families by promoting responsible parenthood. This goal will be accomplished by increasing the inmate's wage-earning capacity, improving decision-making skills and ability to cope with change.

C. Eligibility for services is limited to parents of minor children.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5517. Project Metamorphosis

A. OFS shall enter into a Memorandum of Understanding with the Department of Public Safety and Corrections to provide inmates who are within 12 to 18 months of their release date with basic educational/vocational instruction, life skills instruction, and job placement counseling and preparation.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families by increasing post-release employment and wage rates leading to the successful integration of released inmates back into their families and communities.

C. Eligibility for services is limited to parents of minor children.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5519. Concordia Correctional Life Skills Pre-Release Program at the Concordia Parish Detention Facility

A. OFS shall enter into a Memorandum of Understanding with the Department of Public Safety and Corrections to provide Concordia Parish Correctional Facility inmates who are within 12 to 18 months of their release date with basic educational/vocational instruction, life skills instruction, and job placement counseling and preparation.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families by increasing post-release employment and wage rates leading to the successful integration of released inmates back into their families and communities.

C. Eligibility for services is limited to parents of minor children.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5521. Women and Children's Residential Prevention and Treatment Program

A. OFS shall enter into a Memorandum of Understanding with the Office of Addictive Disorders for a substance abuse prevention and nonmedical treatment program for women with children.

B. These services meet the TANF goal to end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage by providing needy families with nonmedical drug abuse treatment so they may become self-sufficient.

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), Supplemental Security Income (SSI) or Free or Reduced School Lunch.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5523. Early Childhood Development Program

A. OFS shall enter into a Memorandum of Understanding with the Department of Education to provide early childhood education to four-year-olds.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families by giving parents of these children an opportunity earlier in the children's lives to become active partners in their education and increase their own literacy level by participating with their children in school programs and also meet the TANF goal to prevent and reduce the incidence of out-of-wedlock births.

C. Eligibility for services is limited to at-risk families in which the child is one year younger than the eligible age for kindergarten and is eligible to receive free or reduced school lunch meals pursuant to the Federal Child Nutrition Program as documented by a completed application for such meals, whether or not such meals are sought.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5525. Pre-GED/Skills Option Program

A. OFS shall enter into a Memorandum of Understanding with the Department of Education for adult education, pre-GED, skills options, and other dropout prevention programs.

B. These services meet the TANF goal to prevent and reduce the incidence of out-of-wedlock births by providing intervention and improved life prospects for students.

C. Eligibility for services is not limited to needy families.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5527. Program Evaluation, Comprehensive Needs Assessment, and Training

A. OFS shall enter into an Memorandum of Understanding with the Division of Administration to evaluate the TANF initiatives and to conduct a comprehensive needs assessment and training regarding policy and service-delivery deficiencies.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5529. Youth in Transition

A. OFS shall enter into a Memorandum of Understanding with the Office of Community Services to provide services to youth who are ageing out of Foster Care.

B. These services meet the TANF goals to encourage the formation and maintenance of two-parent families and to prevent and reduce out-of-wedlock births.

C. Eligibility for services is not limited to needy families.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5531. After-School Tutorial

A. OFS shall enter into a Memorandum of Understanding with the Department of Education to provide after-school tutorial services.

B. These services meet the TANF goal to prevent and reduce the incidence of out-of-wedlock births by providing intervention and improved life prospects for students.

C. Eligibility for services is not limited to needy families.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5533. Transportation Services

A. The Office of Family Support shall make funding available for transportation of employed participants in TANF initiatives administered through other agencies as well as short-term transportation services for some unemployed participants.

B. These services meet the TANF goal to end the dependence on government benefits by promoting job preparation, work, and marriage.

C. Services may or may not be limited to needy families depending on which program the participant is involved in.

D. Services are considered non-assistance.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5535. Fatherhood

A. Act 639 of the 2001 Regular Session of the Louisiana Legislature created the Fatherhood Council to develop a plan to promote and monitor fatherhood initiatives. Funding and services may be provided in accordance with the plan developed by the Fatherhood Council.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families by providing programs that promote responsible parenting and increase the capacity of fathers to provide emotional and financial support for their children.

C. Eligibility for services is limited to fathers of minor children.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; Acts 12 and 639, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5537. Education and Training

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Department of Education to provide structured after-school programs to help children improve academic performance and to provide literacy and basic education services to adults in need of these services. The Department of Education will implement this program through cooperative endeavor agreements with entities in local communities.

B. These services meet the TANF goals to prevent and reduce the incidence of out-of-wedlock births by providing supervised, safe environments for children thus limiting the opportunities for engaging in risky behaviors, and to encourage the formation and maintenance of two-parent families by providing educational services that enhance a parent's ability to financially and emotionally provide for their children.

C. Eligibility for after-school programs is not limited to needy families. Eligibility for adult education services is limited to parents, legal guardians, and caretaker relatives of minor children.

D. The services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5539. Truancy Assessment and Service Centers

A. OFS shall enter into a Memorandum of Understanding with the Supreme Court Of Louisiana for Truancy Assessment and Service Centers designed to identify, assess, and intervene to ensure that children in kindergarten through sixth grade attend school regularly.

B. These services meet the TANF goal to prevent and reduce the incidence of out-of-wedlock births by providing counseling to children and family members designed to assure regular school attendance and improved academic and behavioral outcomes.

C. Eligibility for services is not limited to needy families.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5541. Court-Appointed Special Advocates

A. OFS shall enter into a Memorandum of Understanding with the Supreme Court Of Louisiana to provide services to needy children identified as abused or neglected who are at risk of being placed in foster care or, are already in foster care. Community advocates provide information gathering and reporting, determination of and advocacy for the children's best interests, and case monitoring to provide for the safe and stable maintenance of the children or return to their own home.

B. The services meet the TANF goal to provide assistance to needy families so that children may be cared for in their own homes or in the home of relatives by ensuring that the time children spend in foster care is minimized.

C. Eligibility for services is limited to needy families, that is, one in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP) benefits, Supplemental Security Income (SSI), or Free or Reduced School Lunch.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5543. Drug Courts Program

A. OFS shall enter into a Memorandum of Understanding with the Supreme Court Of Louisiana to provide services to drug court clients that may include nonmedical treatment, assessment, counseling, education, and training. Eligible services shall not include drug court administrative costs.

B. These services meet the TANF goal to prevent and reduce the incidence of out-of-wedlock births and to encourage the formation and maintenance of two-parent families.

C. Eligibility for services is limited to children and to the parents or caretaker relatives of minor children.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5545. Remediation and Tutoring Programs

A. OFS shall enter into a Memorandum of Understanding with the Department of Education, Office of Student and School Performance, to establish programs designed to increase the likelihood of a student scoring above the "unsatisfactory" achievement level on the Graduate Exit Exam and the LEAP 21 exam and include:

1. Graduate Exit Exam Summer RemediationC designed to provide additional remedial instruction to targeted students, that is, students who scored "unsatisfactory" on the English language arts and/or mathematics components of the Graduate Exit Exam;

2. Louisiana Education Assessment Program (LEAP) 21 Summer RemediationC designed to provide additional remedial instruction to targeted students, that is, fourth and eighth grade students who did not take the spring LEAP 21 test and fourth and eighth grade students who scored "unsatisfactory" on the English language arts and/or mathematics components of the LEAP 21; and

3. Louisiana Education Assessment Program (LEAP) 21 TutoringC designed to provide intense early intervention and remedial instruction to targeted students in an effort to increase the likelihood of them scoring above the "unsatisfactory" level on the LEAP 21. The targeted group includes fourth and eighth grade students who have been retained because of their having scored at the "unsatisfactory" level on the English language arts and/or mathematics components of the LEAP 21 tests, and fourth and eighth grade students whose third and seventh grade IOWA test scores were below the thirtieth percentile and are considered to be at risk of scoring at the "unsatisfactory" level on the English language arts and/or mathematics components of the LEAP 21 tests.

B. These services meet the TANF goal to prevent and reduce the incidence of out-of-wedlock births by encouraging youths to remain in school, reducing their risk of engaging in negative behavior and increasing opportunities for families to become self-sufficient through education and training.

C. Eligibility for services is limited to families which include a minor child living with a custodial parent, an adult caretaker relative or a legal guardian. A family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), Supplemental Security Income (SSI), or Free or Reduced School Lunch is eligible.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5547. Housing Services

A. The Department of Social Services, Office of Family Support, may enter into Memoranda of Understanding or contracts to create pilot programs that provide transitional, short-term, or one-time housing services to needy families with minor children who participate in self-sufficiency activities, who are at risk of losing existing housing arrangements, who are in an emergency situation, or who face ineligibility because of increased earnings. These services can include but are not limited to: relocation assistance; costs associated with moving or relocation; down payment of deposit and/or initial month's rent; short-term continuation of a housing voucher; down payment for the purchase of a house; housing counseling and homebuyer education for prospective homeowners; or other transitional

services determined in conjunction with the Department of Social Services and the Division of Administration.

B. These services meet the TANF goal to provide assistance to needy families so that children can be cared for in their own homes or the homes of relatives and the TANF goal to end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage.

C. Eligibility for services is limited to parents, legal guardians, or caretaker relatives of minor children who are members of a needy family. A needy family is one in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaChip) benefits, Supplemental Security Income (SSI), Free and Reduced Lunch, or Housing and Urban Development (HUD) funded services.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

Family Impact Statement

1. What effect will this rule have on the stability of the family? Family stability is the ultimate intent of all initiatives as described in Subsection B of each section.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? Many of the TANF Initiatives aim to improve the parents' ability to educate and supervise their children.

3. What effect will this have on the functioning of the family? The initiatives aim to effect immediate and long-term improvement of the functioning of the family unit.

4. What effect will this have on family earnings and family budget? Many of these actions have a long-term goal to improve family earnings and are free of cost to the families.

5. What effect will this have on the behavior and personal responsibility of children? Improvement in behavior and personal responsibility is a primary goal of these efforts.

6. Is the family or local government able to perform the function as contained in this proposed rule? The TANF Initiatives are specifically for a family that is considered to be functionally at-risk, and TANF funds to promote the formation and maintenance of two-parent families are specifically administered by state government.

All interested persons may submit written comments through December 28, 2001, to Ann S. Williamson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, Louisiana, 70804-9065.

A public hearing on the proposed rule will be held on December 28, 2001, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, Louisiana, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special

services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code 225-342-4120 (Voice and TDD).

Gwendolyn P. Hamilton
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Temporary Assistance for Needy Families (TANF) Initiatives

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

Implementation costs in FY 01/02 for the Temporary Assistance For Needy Families (TANF) Initiatives are estimated to be \$79,588,000 including \$100,000 for two new positions in the Office of Family Support. The agency will enter into Memoranda of Understanding with state agencies and other entities to provide services for the various programs, and funds for these services will be allocated from the TANF Block Grant to the specified departments/entities. The additional costs for administrative planning, payment allocation, preparation and printing of rulemaking, and other related information are expected to be within the agency's current budget. Future expenditures are subject to legislative appropriation.

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

Through interagency transfers, the state agencies and other entities detailed in the Notice of Intent will receive increased revenues totaling \$79,488,000 to be expended in the provision of services. There is no effect on revenue collection of local governmental units.

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

There is no immediate cost or economic benefit to any persons or nongovernmental groups. However, the majority of these programs offer long-term goals to improve the economic situation of targeted families.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Any new positions associated with the initiatives will be at the discretion of the various TANF partners and will be subject to the same terms of availability and appropriation of TANF funds.

Ann S. Williamson
Assistant Secretary
0111#065

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Transportation and Development Office of Weights, Measures and Standards

Violation Ticket Review Committee
(LAC 73:I.Chapter 12)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Transportation and Development intends to amend Chapter 12 of Title 73 entitled "Violation Ticket Review Committee," in

accordance with R.S. 32:389, as amended by Act 1201 of the 2001 Regular Session of the Louisiana Legislature.

Title 73

WEIGHTS, MEASURES, AND STANDARDS

Part I. Weights and Standards

Chapter 12. Violation Ticket Review Committee

§1201. Composition of Violation Ticket Review Committee

A. One representative of the DOTD Maintenance Section.

B. One representative of the DOTD Legal Section.

C. One designee of the Chief Engineer or the Chief, Maintenance Division.

D. The chairman of the committee is the Chief, Maintenance Division, or his designee.

E. The DOTD Weights and Standards Administrator or his designee shall be a non-voting member.

F. Three of four voting members present is a quorum.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389(D).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:372 (May 1996) amended LR 28:

§1203. Tickets Subject to Review

A. All tickets recognized to contain mathematical error or obvious legal error; or

B. All tickets formally protested (in writing).

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389(D).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:

§1205. Time Limitations

A. Payment of the fine imposed by a violation ticket is due within 30 days from the date of issuance of the ticket.

B. To receive consideration, a violation ticket must be formally protested within 30 days from the date of issuance of the ticket.

C. The Violation Ticket Review Committee must dispense with tickets within 30 working days from receipt of the request for review.

D. The DOTD Weights and Standards Administrator must report to the protestor within seven working days from the committee's decision. Said report shall fully inform the protestor of the decision of the committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389(D).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:

§1207. Duties of the DOTD Weights and Standards Administrator

Administrator

A. Receive and assemble all formally protested violation tickets for review.

B. Investigate the circumstances, claims or allegations surrounding all violation tickets formally submitted for review.

C. Communicate with the protestor during the process and after the decision of the committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389.D.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:

§1209. Authorized Action

A. The Violation Ticket Review Committee is authorized to void or reduce violation tickets, or leave violation tickets intact.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389.D.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:

§1211. Rights of Protesting Party

A. These rules do not impair the right of the protesting party to sue the department to recover payment of the violation ticket as provided in R.S. 32:389.

B. The protesting party will not be afforded the opportunity to personally appear before the Violation Ticket Review Committee, except as provided for in §1215 below. Only his written statement will be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389.D.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:

§1213. Prescription

A. The running of prescription for collection of unpaid violation tickets is not interrupted by filing of the protest.

B. The running of prescription for suing the department to recover monies paid for a violation ticket is not interrupted by filing of the protest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389.D.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:

§1215. Reconsideration by Violation Ticket Review Committee

A. The decision of the Violation Ticket Review Committee may be reconsidered, either upon request of the protestor or upon motion of a member of the Violation Ticket Review Committee. Such request must be made within 30 days of the date of the notice of the decision of the first hearing. Additional information must be provided at second review. Should the protestor request that he be allowed to personally appear before the committee, he may be allowed by the Committee to do so at the hearing on reconsideration.

B. Following conclusion of the committee's final review and within 30 days of the issuance of the report required by Paragraph A of §1205, the department shall notify the protestor of his right to appeal to the Review Panel established by Act 1201 of the 2001 Regular Session of the Louisiana Legislature.

§1216. Consideration by Review Panel

A. The protesting party may request in writing a review conducted by the Review Panel comprised of five members appointed as follows:

1. one member of the Review Panel shall be appointed by the secretary of the Department of Transportation and Development;

2. two members shall be appointed by the Louisiana Motor Transport Association;

3. one member shall be appointed by the Chairman of the House Committee on Transportation, Highways and Public Works; and

4. one member shall be appointed by the Chairman of the Senate Committee on Transportation, Highways and Public Works.

B. The members of the Review Panel shall select a Chairman by majority vote.

C. The Protestor must make his written request for review within 30 days of his notification of final decision by the Violation Ticket Review Committee. The Protestor must include in his correspondence a request for personal appearance.

D. The review panel shall be convened upon the motion of the chairman a minimum of every 60 days. The department shall provide all information necessary or required concerning the tickets reviewed by the Review Panel. The protestor, upon his request, may appear at the meetings of the Review Panel.

E. The Review Panel is authorized to void or reduce violation tickets, or leave violation tickets intact. The decision of the Review Panel shall be binding upon the Department and shall supersede the decision of the Violation Ticket Review Committee.

F. A majority of the Review Panel constitutes a quorum and a majority vote of the Review Panel is needed to effect a decision.

G. The Protestor shall be notified of the final decision of the Review Panel within seven days from the date of the meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389.D.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:

§1217. Record-Keeping

All actions of the Violation Ticket Review Committee and the Review Panel which require monetary adjustment of Violation Tickets shall be recorded on computer and reported to the DOTD Financial Services Section. All records shall be maintained in accordance with the Public Records Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389.D.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:

All interested persons so desiring shall submit oral or written data, views, comments or arguments no later than 30 days from the date of publication of this Notice of Intent. Such comments should be submitted to Denny Silvio, Weights and Standards Administrator, P.O. Box 94042, Baton Rouge, LA 70804-9052, (504) 377-7100.

Kam K. Movassaghi, P.E., Ph.D
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Violation Ticket Review Committee

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

There should be no implementation costs or savings to state or local governmental units other than those opportunity costs necessary to conduct another tier of review. The department currently conducts a review process. The proposed rulemaking simply adds another tier to the process which will be conducted by state employees and representatives of the Louisiana Motor Vehicle Transport Association who will perform these duties as part of their current jobs.

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

There should be little or no effect on revenue collections of state or local governmental units. The new panel, legislatively created, has the authority to void or reduce violation tickets. Such action would have a negative impact on revenue collections of state or local governmental units. The amount of this possible impact cannot be estimated at this time.

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

The trucking industry should benefit from the rulemaking which implements an additional tier to the review process which currently exists. The affected members of the industry will have another "cost-free" opportunity to appeal their violation tickets to the review panel. The amount of this benefit cannot be estimated at this time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment.

Kam K. Movassaghi, Ph.D, P.E.
Secretary

0111#059

Robert E. Hosse
General Government
Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Oyster Harvest Area Grid System (LAC 76:VII.519)

The Wildlife and Fisheries Commission does hereby give notice to establish an oyster harvest area grid system. This is being done under the authority of R.S. 56:430.1.

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

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of

intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit comments relative to the proposed Rule to Karen Foote, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Monday, January 7, 2002.

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Dr. H. Jerry Stone
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Oyster Harvest Area Grid System

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No implementation costs or savings to state or local governmental units is anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effects to state or local governmental revenue collections are anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
No estimated costs or economic benefits affecting persons or nongovernmental groups are anticipated as a result of the promulgation of the oyster harvest area grid system.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effects on competition or employment are anticipated.

James L. Patton
Undersecretary
0111#043

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office