

Rules

RULE

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 has amended Title 28, Education. The amendment 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/Profound
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

Weegie Peabody
Executive Director

0203#067

RULE

Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification of School Personnel Primary and Secondary Teaching (Focus) Areas for Grades 7-12 Certification (LAC 1.903)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:1.903.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**

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 28:446 (March 2002).

**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	✓		
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.

Weegie Peabody
Executive Director

0203#068

RULE

**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)

In accordance with Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Student Financial Assistance Commission (LASFAC) has amended its Scholarship/Grant Rules (R.S. 17:3021-3026, R.S. 3041.10-3041.15, and R.S. 17:3042.1, R.S. 17:3048.1).

**Title 28
EDUCATION**

**Part IV. Student Financial AssistanceC Higher
Education Scholarship and Grant Programs
Chapter 3. Definitions
§301. Definitions**

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

*Average Award Amount (TOPS-Tech)*Cis applicable to those students awarded the TOPS-Tech and TOPS Opportunity, Performance, and Honors Awards who attend LAICU colleges and universities and are enrolled in a vocational, technical education certificate or diploma program or non-academic undergraduate degree program, and is determined by dividing the total dollar value of awards, which are made to students enrolled in the same types of programs in the prior Program Year (Non-Academic Program) at eligible public colleges and universities that do not offer academic degrees at the baccalaureate level, by the total number of students that received the awards.

Award Amount Can amount equal to Tuition at the school attended, for those students attending a Louisiana public college or university, as determined by the commission, which may be used by the student to pay any educational expense included in that student's "Cost of Attendance." The amount paid for TOPS and TOPS-Tech Awards shall be as follows:

a. - c. ...

d. For students with the TOPS Opportunity, Performance, and Honors Award attending a regionally accredited independent college or university in Louisiana that is a member of the Louisiana Association of Independent Colleges and Universities and enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, the amount shall equal the Average Award Amount (TOPS-Tech).

e. - g. ... * * *

Full-Time Student

a. ...

b. For continuation purposes, a student must be enrolled full-time at the end of the fourteenth class day at a semester school or the ninth class day at a quarter or term school;

c. - f. ...

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

HISTORICAL NOTE: Promulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458, 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR26:1262 (June 2000), LR 26:1601 (July 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26: 2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 28:446 (March 2002).

Chapter 5. Application; Application Deadlines and Proof of Compliance

§503. Application Deadlines

A.1 - 3. ...

4. For priority consideration for award years after 1998-99, applicants must submit the FAFSA to be received by the federal processor by May 1, preceding the award year.

B. - E. ...

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

HISTORICAL NOTE: Promulgated LR 24:635 (April 1998), amended LR 24:1900 (October 1998), LR 25:655 (April 1999), LR 25:2396 (December 1999), LR 25:1994 (September 2000), LR 28:447 (March 2002).

§507. Final Deadline for Submitting Documentation of Eligibility

A. ...

B. All documentation and certifications necessary to establish student eligibility including, but not limited to, high school and/or college transcripts and certifications, copies of Student Aid Reports, applicant confirmation forms, promissory notes and other documents which may be utilized in determining eligibility, must be received by LASFAC no later than May 1 of the award year. For example, to receive an award for the 2001-2002 award year, LASFAC must have in its possession all documents relevant to establishing eligibility by May 1, 2002.

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

HISTORICAL NOTE: Promulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 28:447 (March 2002).

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

§701. General Provisions

A. - E.5.a. ...

b. In a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree receive an amount equal to the Average Award Amount (TOPS-Tech), as defined in §301, plus any applicable stipend, prorated by four terms or equivalent units in each Program Year (Non-academic Program). The stipend will be paid for each term or equivalent unit for which tuition is paid.

E.6. - G.2. ...

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

HISTORICAL NOTE: Promulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 25: 256 (February 1999), LR 26:67 (January 2000), LR 26:1262 (June 2000), LR 26: 1995, 2000 (September 2000), LR 28:447 (March 2002).

§705. Maintaining Eligibility

A.1. - 12. ...

B. Students failing to meet the requirements listed in §705.A.8 or §705.A.9.a or b may have their tuition awards reinstated upon regaining Steady Academic Progress (See §301.) and/or attainment of the required GPA, if the period of ineligibility did not persist for more than two years from the date of loss of eligibility. Students who fail to meet the continuation requirements of §705.a.9.b., but who meet the continuation requirements of §705.A.9.a., shall no longer be eligible for the stipend authorized for the Performance and Honors Awards, but shall continue to receive the award amount for the Opportunity Award.

C. - D. ...

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

HISTORICAL NOTE: Promulgated LR 24:637 (April 1998), amended LR 24:1904 (October 1998), LR 25:257 (February 1999), LR 25:656 (April 1999), LR 25:1091 (June 1999), LR 26:67 (January 2000), LR 26:688 (April 2000), LR 26:1996, 2001 (September 2000), LR 28:447 (March 2002).

Chapter 8. TOPS-TECH Award

§803. Establishing Eligibility

A. - A. 5.d.iii. ...

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

A.6.a. - A.6.a.ii. ...

iii. For students graduating through the 2001-2002 school year, the TOPS-TECH core curriculum as follows:

Core Curriculum B TOPS-TECH Award...

A.6.b. - A.11. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:1898 (October 1998), amended LR 24:2237 (December 1998), LR 25:1795 (October 1999), LR 26:65, 67 (January 2000), LR 26:1602 (August 2000), LR 26:1997 (September 2000), LR 26:2269 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 28:447 (March 2002).

Chapter 9. TOPS Teacher Award

§903. Establishing Eligibility

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

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

A.4.a.ii. - 9. ...

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

HISTORICAL NOTE: Promulgated LR 24:637 (April 1998), amended LR 24:1906 (October 1998), LR 26:68 (January 2000), LR 26:2269 (October 2000), LR 27:284 (March 2001), LR 28:448 (March 2002).

§907. Maintaining Eligibility

A.1. - 6. ...

7. submit the Renewal FAFSA in accordance with §501.B;

A.8. - B. ...

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

HISTORICAL NOTE: Promulgated LR 24:638 (April 1998), amended LR 24:1907 (October 1998), LR 25:1092 (June 1999), LR 26:689 (April 2000), LR 28:448 (March 2002).

Chapter 13. Leveraging Educational Assistance Partnership (LEAP)

§1303. Establishing Eligibility

A. LEAP applicants must meet all of the following criteria:

1. - 2. ...

3. annually, submit the completed Free Application for Federal Student Aid (FAFSA) or Renewal FAFSA, whichever is available to the applicant, by any deadline imposed by the institution attended; and

4. - 12. ...

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

HISTORICAL NOTE: Promulgated LR 24:641 (April 1998), amended LR 24:1910 (October 1998), LR 25:1459 (August 1999), LR 28:448 (March 2002).

Chapter 19. Eligibility and Responsibilities of Postsecondary Institutions

§1901. Eligibility of Postsecondary Institutions to Participate

A. Undergraduate degree granting schools which are components of Louisiana public university medical centers and two- and four-year public colleges and universities are authorized to participate in the Tuition Opportunity Program for Students (TOPS), TOPS-TECH, Rockefeller State Wildlife Scholarship, and Leveraging Educational Assistance Partnership (LEAP) Program.

B. - D. ...

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

HISTORICAL NOTE: Promulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August, 1999), LR 26:1998 (September 2000), LR 28:448 (March 2002).

§1903. Responsibilities of Postsecondary Institutions

A. - B.1. ...

2. institutions will bill LASFAC based on their certification that the recipient of a TOPS Award is enrolled full-time, as defined in §301, at the end of the fourteenth class day for semester schools and the ninth class day for quarter and term schools, and for any qualifying summer

sessions at the end of the last day to drop and receive a full refund for the full summer session). Institutions shall not bill for students who are enrolled less than full-time at the end of the fourteenth class day for semester schools or the ninth class day for quarter and term schools, and for any qualifying summer sessions at the end of the last day to drop and receive a full refund for the summer session), unless the student qualifies for payment for less than full-time enrollment as defined in §2103.B. Students failing to meet the full-time enrollment requirement are responsible for reimbursing the institution for any awards received. Refunds of awards to students who are not receiving federal Title IV aid, for less than full-time enrollment after the fourteenth or ninth class day, as applicable, shall be returned to the state. Refunds to students who are receiving federal Title IV aid shall be refunded to the state in accordance with the institution's federal Title IV aid refund procedures; and

B.3. ...

4. annually, all institutions are required to provide LASFAC a current fee schedule. The schedule must include an itemized description of the composition of the mandatory fees listed on the fee schedule;

5. certify that the institution will reimburse LASFAC for any award funds incorrectly disbursed to ineligible students; and

6. upon the school's certification that a recipient of a TOPS Award is enrolled full-time, institutions shall bill for and LASFAC will reimburse the institution for each such recipient as follows:

a. public colleges and universities may bill for an amount up to the maximum tuition for that institution, as defined in §301;

b. Louisiana Technical College campuses may bill for an amount up to the tuition for that institution, as defined in §301;

c. LAICU member colleges and universities may bill for students enrolled in academic programs an amount up to the Weighted Average Award Amount, as defined in §301;

d. LAICU member colleges and universities may bill for students enrolled in nonacademic programs an amount up to the Average Award Amount (TOPS-Tech), as defined in §301;

e. for recipients of the Performance and Honors awards, institutions may bill LASFAC for the stipend that accompanies these awards, in the amounts of \$200 or \$400 per semester, respectively.

7. upon the school's certification that a recipient of a TOPS-TECH Award is enrolled full-time, institutions shall bill for and LASFAC will reimburse the institution for each such recipient as follows:

a. eligible public colleges and universities that do not offer an academic undergraduate degree at the baccalaureate level may bill for an amount up to the tuition for that institution, as defined in §301;

b. all other Eligible Colleges and Universities may bill for an amount up to the Average Award Amount (TOPS-Tech), as defined in §301; and

8. Before applying a TOPS award to pay a student's tuition, institutions shall first apply the student's out-of-pocket payments, including student loans, toward tuition charges. In those cases when a student's tuition as defined in

26 U.S.C. 25A is paid from a source other than the TOPS award, the institution shall apply the TOPS award toward payment of expenses other than tuition which are described in the term "cost of attendance" as that term is defined in 20 U.S.C. 1087(II), as amended, for the purpose of qualifying the student or his parent or guardian for the federal income tax credits provided for under 26 U.S.C. 25A.

C. - D.2. ...

3. release award funds by crediting the student's account within 14 days of the institution's receipt of funds or disbursing individual award checks to recipients as instructed by LASFAC. Individual award checks for the Rockefeller State Wildlife Scholarship, TOPS Teacher Award and LEAP must be released to eligible recipients within 30 days of receipt by the school or be returned to LASFAC.

E. Reporting of Academic Data. At the conclusion of each term or semester, the institution will complete and return to LASFAC, a College Academic Grade Report including, but not limited to, the following data elements:

1. - 3. ...

4. academic standing, and

E.5. - G ...

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

HISTORICAL NOTE: Promulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25: 1459 (August 1999), LR 26:1998, 2002 (September 2000), LR 28:448 (March 2002).

Chapter 21. Miscellaneous Provisions and Exceptions
§2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements

A. - B. ...

C. Less Than Full-Time Attendance. LASFAC will authorize awards under the TOPS Opportunity, Performance, Honors and Teachers Awards, and the TOPS-TECH Award, for less than full-time enrollment provided that the student meets all other eligibility criteria and at least one of the following:

C.1. - E.11.c. ...

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

HISTORICAL NOTE: Promulgated LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1017 (May 2000), LR 26:2004 (September 2000), LR 27:37 (January 2001), LR 28:449 (March 2002).

§2107. Funding and Fees

A. - A.2. ...

B. Less than Full-Time Attendance. The LASFAC will authorize awards under the TOPS Opportunity, Performance, Honors and Teachers Awards for less than full-time enrollment provided that the student meets all other eligibility criteria and at least one of the following:

1. requires less than full-time enrollment to complete the undergraduate degree; or

2. is enrolled in a degree program that defines *full-time* as less than 12 hours per semester or eight hours per quarter; or

3. requires less than full-time enrollment to complete requirements for a specified course of study or clinical program.

C. Insufficient Funds Appropriated

1. All LASFAC administered State Scholarship and Grant Program Awards are contingent upon the annual appropriation of funds by the Louisiana Legislature.

2. In the event appropriated funds are insufficient to fully reimburse institutions for awards and stipends for all students determined eligible for the TOPS Opportunity, Performance, Honors and TECH Awards for a given academic year, then the number of eligible students shall be reduced in accordance with the following procedures until such funds are sufficient.

a. Applicants who do not submit financial data on the initial FAFSA or a renewal FAFSA or who do not submit a renewal FAFSA to allow determination of eligibility for federal aid will be the first students eliminated from consideration if insufficient funds are appropriated for the program.

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

i. students qualified by reduction of Foreign Language requirement for 1996-97 and 1997-98 graduates;

ii. students qualified as Exceptional Students/Students with disabilities;

iii. students who graduated from out-of-state high schools; and,

iv. students who completed an Approved Home Study Program.

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

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

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

EFC, shall be the first to be awarded by reversing the procedure described in §2107.D.2.c.

D. Stop Payment of Uncleared Checks. The LASFAC may stop payment on checks which are issued as scholarship or grant awards but not negotiated by September 1 following the close of the academic year for which they were issued.

E. Transferability of Funds. A student receiving an award under the Tuition Opportunity Program for Students (TOPS), and/or Rockefeller State Wildlife Scholarship may have his award transferred to another postsecondary institution which is authorized to participate in these programs, as described in §1901. The student must meet all continuation requirements and submit a Scholarship and Grant Transfer Request Form.

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

HISTORICAL NOTE: Promulgated LR 24:649 (April 1998), amended LR 24:1919 (October 1998), LR 26:1998 (September 2000), LR 28:449 (March 2002).

Mark S. Riley
Assistant Executive Director

0203#070

RULE

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

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

In accordance with the Administrative Procedure Act R.S., 49:950 et seq., The Louisiana Tuition Trust Authority (LATTA) has amended the Rules of the Student Tuition Assistance and Revenue Trust (START Saving) Program (R.S. 17:3091-3099.2).

**Title 28
EDUCATION**

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

Chapter 1. General Provisions

Subchapter A. Student Tuition Trust Authority

§107. Applicable Definitions

* * *

Eligible Educational Institution either a state college, university, or technical college or institute or an independent college or university located in this state that is accredited by the regional accrediting association, or its successor, approved by the U.S. Secretary of Education or a public or independent college or university located outside this state that is accredited by one of the regional accrediting associations, or its successor, approved by the U.S. Secretary of Education or a Louisiana licensed proprietary school licensed pursuant to R.S. Chapter 24-A of Title 17, and any subsequent amendments thereto and is eligible to participate in a program under Title IV of the Higher Education Act of 1965 (20 U.S.C. 1088), as amended.

* * *

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1154 (August 2000), LR 28:450 (March 2002).

**Chapter 3. Education Savings Account
§301. Education Savings Accounts**

A. - H.2. ...

3. By signing the owner's agreement, the account owner certifies that both account owner and beneficiary are United States citizens or permanent residents of the United States as defined by the U.S. Immigration and Naturalization Service (INS) and, if permanent residents have provided copies of INS documentation with the submission of the application and owner's agreement, and that either the account owner or beneficiary is a Louisiana resident.

H.4. - J. ...

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

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

Mark S. Riley
Assistant Executive Director

0203#071

RULE

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

Control of Emissions of Nitrogen Oxides
(LAC 33:III.2201)(AQ215)

Editor's Note: The following Rule has been repromulgated in its entirety to correct typographical errors. This Rule may be viewed in the February 20, 2002 edition of the *Louisiana Register* on pages 290-301.

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has adopted the Air Quality regulations, LAC 33:III.Chapter 22 (Log #AQ215).

This Rule establishes requirements for reducing emissions of nitrogen oxides (NOx) to allow the Baton Rouge nonattainment area to come into compliance with the National Ambient Air Quality Standard for ozone by May of 2005. Five parishes are defined by EPA as nonattainment. They are the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge. Livingston is included even though it has no NOx emissions sources greater than 50 tons per year (tpy). Modeling has demonstrated that the nonattainment area cannot be brought into attainment without including certain outlying parishes. Therefore, the parishes of East Feliciana, Pointe Coupee, St. Helena, and West Feliciana also have been included in the Rule. The Rule establishes emission factors for reducing emissions from boilers, heaters, furnaces, turbines, and internal combustion engines at affected facilities. The Rule also establishes requirements for permits, compliance,

recordkeeping and reporting. During the summer of 2000, Louisiana experienced many days of elevated ozone levels, especially in the Baton Rouge area, as a number of the monitored readings exceeded the one-hour standard. In addition, the 5-parish Baton Rouge ozone nonattainment area did not meet the 1999 statutory deadline to comply with the one-hour ozone National Ambient Air Quality Standard (NAAQS). Urban Airshed Modeling (UAM) indicates that a reduction in NO_x emissions is required to lower ozone levels. Therefore, it is necessary to identify and promulgate regulations to implement emission reduction controls. LDEQ is preparing a revision to the State Implementation Plan (SIP) that will specify emission reduction control strategies so that Louisiana can comply with the NAAQS. This Rule to control emissions of NO_x is only one measure identified to reduce emissions. The basis and rationale for this Rule are to protect air quality in Louisiana and comply with the NAAQS for ozone.

The department made substantive changes to the Rule as a result of comments received during the public comment period and completion of the modeling analysis for the Baton Rouge attainment plan. The changes include, but are not limited to, the following:

1. change to, or in, emission factors for some boilers;
2. addition of certain exemptions;
3. addition of monitoring alternatives;
4. move of previous Subsection C (Definitions) to Subsection B;
5. move of previous Subsection B (Exemptions) to Subsection C; and
6. clarifications and rewording.

This Rule meets an exception listed in R.S. 30:2019.D.(2) and R.S.49:953.G.(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33
ENVIROMENTAL QUALITY
Part III. Air

Chapter 22. Control of Emissions of Nitrogen Oxides (NO_x)

§2201. Affected Facilities in the Baton Rouge Nonattainment Area and the Region of Influence

A. Applicability

1. The provisions of this Chapter shall apply to any affected facility in the Baton Rouge Nonattainment Area (i.e., the entire parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge) and the Region of Influence (i.e., affected facilities in the attainment parishes of East Feliciana, Pointe Coupee, St. Helena, and West Feliciana).

2. The provisions of this Chapter shall apply during the ozone season (May 1 to September 30) of each year.

3. All affected facilities shall be in compliance as expeditiously as possible, but by no later than the dates specified in Subsection J of this Section.

B. Definitions. Unless specifically defined in this Subsection or in LAC 33:III.111 or 502, the words, terms, and abbreviations in this Chapter shall have the meanings commonly used in the field of air pollution control. For

purposes of this Chapter only, the following definitions shall supersede any definitions in LAC 33:III.111 or 502.

Administrator—the administrator, or an authorized representative, of the U. S. Environmental Protection Agency (EPA).

Administrative Authority—the secretary of the Department of Environmental Quality or his designee or the appropriate assistant secretary or his designee.

Affected Facility—any facility within the Baton Rouge Nonattainment Area or the Region of Influence with one or more affected point sources that collectively emit or have the potential to emit 50 tons or more per year of NO_x, unless exempted in Subsection C of this Section.

Affected Point Source—any point source located at an affected facility and subject to an emission factor listed in Paragraph D.1 of this Section or used as part of an alternative plan in accordance with Subsection E of this Section, unless exempted in Subsection C of this Section.

Ammonia Reformer—a type of process heater/furnace located in an ammonia production plant that is designed to heat a mixture of natural gas and steam to produce hydrogen and carbon oxides.

Averaging Capacity—the average actual heat input rate in MMBtu/hour at which an affected point source operated during the ozone season of the two calendar years of 2000 and 2001 (e.g., total heat input for the period divided by the actual hours of operation for the same period). Another period may be used to calculate the averaging capacity if approved by the department. For units with permit revisions that legally curtailed capacity or that were permanently shut down after 1997, the averaging capacity is the average actual heat input during the last two ozone seasons of operation before the curtailment or shutdown.

Baton Rouge Nonattainment Area—the entire parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge.

Biomass—defined as bagasse, rice-husks, wood, or other combustible, vegetation-derived material that is suitable for use as fuel.

Boiler—any combustion equipment fired with any solid, liquid, and/or gaseous fuel that is primarily used to produce steam, or heat water, or any other heat transfer medium for power generation or for heat to an industrial, institutional, or commercial operation. Equipment that is operated primarily for waste treatment and that incidentally produces steam shall not be regulated under this Chapter as a boiler.

Cap—a system for demonstrating compliance whereby an affected facility, a subset of affected sources at an affected facility, or a group of affected facilities under common control are operated to stay below a mass emission rate expressed as mass per unit of time. The allowable mass emission rate is calculated by adding the allowable emissions for each affected point source. The allowable emission is the product of the source's averaging capacity and the applicable factor in Subsection D.1 of this Section.

Chemical Processing Gas Turbine—a gas turbine that vents its exhaust gases into the operating stream of a chemical process.

Coal—all solid fuels classified as anthracite, bituminous, subbituminous, or lignite by the American Society for Testing and Materials, Designation D388-77. For the purposes of this Chapter, coal shall also include

petroleum coke, solid carbon residues from the processing of petroleum products and coal-derived synthetic fuels, including but not limited to, solvent refined coal, coal-oil mixtures, and coal-water mixtures.

Combined Cycle—a combustion equipment configuration that generates electrical power with a stationary gas or liquid-fired turbine and/or a stationary internal combustion engine and that recovers heat from the discharge within equipment to heat water or generate steam.

Continuous Emissions Monitoring System (CEMS)—the total equipment that may be required to meet the data acquisition and availability requirements, used to sample, condition, if applicable, analyze, and provide a record of emissions.

Daily Average—an average of the hourly data for one calendar day starting at 12-midnight and continuing until the following 12-midnight.

Department—the Louisiana Department of Environmental Quality.

Elapsed Run-Time Meter—an instrument designed to measure and record the time that an affected point source has run during a designated period.

Electric Power Generating System—all boilers, stationary internal combustion engines, stationary gas turbines, and other combustion equipment within an affected facility that are used to generate electric power and that are owned or operated by a municipality, an electric cooperative, an independent power producer, a public utility, or a Louisiana Public Service Commission regulated utility company, or any of its successors.

Emergency Standby Gas Turbine or Engine—a gas turbine or engine operated as an electrical or a mechanical power source for an affected facility when the primary source has been disrupted or discontinued during an emergency due to circumstances beyond the control of the owner or operator of the affected facility and that is operated only during such an emergency or when normal testing procedures, as recommended by the manufacturer, are being performed. The definition includes a stationary gas turbine or a stationary internal combustion engine that is used at a nuclear power plant as an emergency generator that is subject to Nuclear Regulatory Commission (NRC) regulations and a stationary internal combustion engine that is used for the emergency pumping of water for either fire protection or flood relief. This term does not include an electric generating unit in peaking service.

Facility—a contiguous area under common control that contains various types of equipment that emit or have the potential to emit NO_x.

Facility-Wide Averaging Plan—an alternative emission plan whereby an affected facility (or affected facilities with a common owner or operator) with multiple affected point sources of NO_x emissions achieves the required reduction by a different mix of controls from that mandated by Subsection D of this Section. Some affected point sources may be over-controlled (more restrictive than the regulation) or shut down in order to offset other affected point sources that are under-controlled (less restrictive than the regulation) or not controlled, provided the required overall NO_x reduction is met.

Facility-Wide Emission Factor—the total average allowable NO_x emission factor in pound NO_x/MMBtu for

affected point sources when firing at their averaging capacities.

F Factor—the ratio of the gas volume of the products of combustion to the heat content of the fuel, typically expressed in dry standard cubic feet (dscf) per MMBtu.

Flare—a type of equipment specifically designed for combusting gaseous vents at an above-ground location.

Fluid Catalytic Cracking Unit Regenerator—a unit in a refinery where catalyst is recovered (regenerated) by burning off coke and other deposits with hot air. The term includes the associated equipment for controlling air pollutant emissions and for heat recovery.

Gas—any gaseous substance that can be used as a fuel to create heat and/or mechanical energy including natural gas, synthetically produced gas from coal or oil, gaseous substances from the decomposition of organic matter, and gas streams that are by-products of a manufacturing process.

Heat Input—the heat released due to fuel combustion in an affected point source, using the higher heating value of the fuel, excluding the sensible heat of the incoming combustion air.

Higher Heating Value—a measurement of the heat evolved during the complete combustion of a substance, including the latent heat of condensation of any water that is produced.

Horsepower Rating—the engine manufacturer's maximum continuous load rating at the lesser of the engine or driven equipment's maximum published continuous speed.

Incinerator—same as defined in LAC 33:III.111.

International Standards Organization (ISO) Conditions—standard conditions of 59° F, 1.0 atmosphere, and 60 percent relative humidity.

Kilns and Ovens—combustion equipment used for drying, baking, cooking, and calcining. Kilns can also be used for the treatment of solid wastes.

Lean-Burn Engine—a spark-ignited or compression-ignited, Otto cycle, diesel cycle, or two-stroke engine that is not capable of being operated with an exhaust stream oxygen concentration equal to or less than 1.0 percent, by volume on a dry basis, as originally designed by the manufacturer. The exhaust gas oxygen concentration shall be determined from the uncontrolled exhaust stream.

Liquid Fuel—any substance in a liquid state that can be used as a fuel to create heat and/or mechanical energy including:

- a. crude oil, petroleum oil, fuel oil, residual oil, distillate, or other liquid fuel derived from crude oil or petroleum;
- b. liquid by-products of a manufacturing process or a petroleum refinery; and
- c. any other liquid fuel.

Low Ozone Season Capacity Factor Boiler or Process Heater/Furnace—a boiler or process heater/furnace with maximum rated capacity greater than or equal to 80 MMBtu/hour and ozone season heat input less than or equal to 0.92×10^{11} Btu.

Malfunction—any sudden and unavoidable failure, as defined in LAC 33:III.111.

Maximum Rated Capacity—the maximum annual design capacity, as determined by the equipment manufacturer or as proven by actual maximum annual

performance in the field, unless the affected point source is limited by permit condition to a lesser annual capacity, in which case the limiting condition shall be used as the maximum rated capacity. Where the capacity of a point source is limited by an operating cap applicable to a group of point sources (e.g., several units capped to a combined total firing rate), the total firing rate cap shall be divided by the number of point sources in the cap to arrive at an equivalent maximum rated capacity. This equivalent maximum rated capacity shall be used only to determine the applicability of the emission factors and monitoring provisions of this Chapter.

Megawatt (MW) Rating—the continuous power rating or mechanical equivalent by a stationary gas turbine manufacturer at ISO conditions, without consideration to the increase in turbine shaft output and/or decrease in turbine fuel consumption by the addition of energy recovered from exhaust heat.

Nitric Acid Production Unit—a facility that produces nitric acid by any process.

Nitrogen Oxides (NO_x)—the sum of the nitric oxide and nitrogen dioxide in a stream, collectively expressed as nitrogen dioxide.

Number 6 Fuel Oil—fuel oil of the grade that is classified number 6, according to ASTM Standard Specification for classification of fuel oil by ASTM D396-84.

Ozone Season—May 1 to September 30, inclusively.

Peaking Service—a stationary gas turbine or stationary internal combustion engine that is operated intermittently to produce energy. To be in peaking service, the annual heat input or horsepower-hours for the affected point source shall be less than the product of 2500 hours and the MW rating of the turbine or the horsepower rating of the engine.

Permanent Shutdown—a shutdown of an affected point source where the owner or operator has filed a notice of permanent shutdown with the department or where the department, through a permit revision or final permit, has removed the affected point source from the applicable permit. (To maintain temporary shutdown status, a source must be maintained in good working order and not dismantled or cannibalized, must still be listed in the applicable permit, must still be listed on the department's emission inventory, and must continue to pay appropriate fees.)

Predictive Emissions Monitoring System (PEMS)—a system that uses process and other parameters as inputs to a computer program or other data reduction system to produce values in terms of the applicable emission limitation or standard.

Process Heater/Furnace—any combustion equipment fired with solid, liquid, and/or gaseous fuel that is used to transfer heat to a process fluid, superheated steam, or water for the purpose of heating the process fluid or causing a chemical reaction. The term process heater/furnace does not apply to any unfired waste heat recovery boiler that is used to recover sensible heat from the exhaust of any combustion equipment, or to boilers as defined in this Subsection.

Pulp Liquor Recovery Furnace—either a straight Kraft recovery furnace or a cross recovery furnace as defined in 40 CFR 60 subpart BB.

Region of Influence—an area to the north of the Baton Rouge Nonattainment Area that encompasses affected facilities in the attainment parishes of East Feliciana, Pointe Coupee, St. Helena, and West Feliciana.

Rich-Burn Engine—all stationary reciprocating engines that do not fit the definition of lean-burn.

Sensible Heat—the heat energy stored in a substance as a result of an increase in its temperature.

Stationary Gas Turbine—any turbine system that is gas and/or liquid fuel fired and that is either attached to a foundation at an affected facility or is portable equipment operated at a specific affected facility for more than 60 days in any ozone season.

Stationary Internal Combustion Engine—a reciprocating engine that is either gas and/or liquid fuel fired and that is either attached to a foundation or is portable equipment operated at a specific affected facility for more than six months at a time. This term does not include locomotive engines or self-propelled construction engines.

Supplemental Firing Unit—a unit with burners that is installed in the exhaust duct of a stationary gas turbine or internal combustion engine for the purpose of supplying supplemental heat to a downstream heat recovery unit.

Thirty-Day (30-Day) Rolling Average—an average, calculated for each day that fuel is combusted, of hourly emissions data for the preceding 30 days that fuel is combusted in an affected point source.

Totalizing Fuel Meter—a meter or metering system that provides a cumulative measure of fuel consumption.

Trading Allowances—the tons of NO_x emissions that result from over-controlling, permanently reducing the operating rate of, or permanently shutting down, an affected point source located within the Baton Rouge Nonattainment Area or the Region of Influence. The allowances are determined in accordance with LAC 33:III.Chapter 6 and from the emission factors required by Subsection D of this Section for the affected point source and the enforceable emission factor assigned by the owner or operator in accordance with Subsection E of this Section. Trading allowances will be granted only for reductions that are real, quantifiable, permanent, and federally enforceable. NO_x reductions that are used in a facility-wide averaging plan cannot be also used in a trading plan.

Wood—wood, wood residue, bark, or any derivative fuel or residue thereof in any form, including but not limited to, sawdust, sander dust, wood chips, scraps, slabs, millings, shavings, and processed pellets made from wood or other forest residues.

C. Exemptions. The following categories of equipment or processes located at an affected facility within the Baton Rouge Nonattainment Area or the Region of Influence are exempted from the provisions of this Chapter:

1. boilers and process heater/furnaces with a maximum rated capacity of less than 80 million British thermal units (MMBtu) per hour;
2. stationary gas turbines with a megawatt rating based on heat input of less than 10 megawatts (MW);
3. stationary internal combustion engines as follows:
 - a. rich-burn engines with a rating of less than 300 horsepower (Hp); and
 - b. lean-burn engines with a rating of less than 1500 Hp;

4. low ozone season capacity factor boilers and process heater/furnaces, in accordance with Subsection H.11 of this Section;

5. stationary gas turbines and stationary internal combustion engines, that are:

- a. used in research and testing;
- b. used for performance verification and testing;
- c. used solely to power other engines or turbines

during start-ups;

d. operated exclusively for fire fighting or training and/or flood control;

e. used in response to and during the existence of any officially declared disaster or state of emergency;

f. used directly and exclusively for agricultural operations necessary for the growing of crops or the raising of fowl or animals; or

- g. used as chemical processing gas turbines.

6. any point source, in accordance with Subsection H.12 of this Section, that operates less than 400 hours during the ozone season;

7. flares, incinerators, kilns and ovens as defined in Subsection B of this Section;

8. any point source during start-up and shutdown as defined in LAC 33:III.111 or during a malfunction as defined in 40 CFR section 60.2;

9. any point source used solely to start up a process;

10. any point source firing biomass fuel that supplies greater than 50 percent of the heat input on a monthly basis;

11. any point source at a sugar mill;

12. fluid catalytic cracking unit regenerators;

13. pulp liquor recovery furnaces;

14. diesel-fired stationary internal combustion engines;

15. any affected point source that is required to meet a more stringent state or federal NO_x emission limitation, whether by regulation or permit. (In this case, the monitoring, reporting, and recordkeeping requirements shall be in accordance with the more stringent regulation or permit and not this Chapter. If the applicable regulation or permit does not specify monitoring, reporting, and recordkeeping requirements, the provisions of this Chapter shall apply.);

16. wood-fired boilers that are subject to 40 CFR 60, subpart Db;

17. nitric acid production units that are subject to 40 CFR 60, subpart G or LAC 33:III.2307;

18. any affected point source firing Number 6 Fuel Oil during a period of emergency and approved by the administrative authority;

19. boilers and industrial furnaces treating hazardous waste and regulated under LAC 33:V.Chapter 30 or 40 CFR part 264, 265, or 266, including halogen acid furnaces and sulfuric acid regeneration furnaces; and

20. high efficiency boilers or other combustion devices regulated under the Toxic Substance Control Act PCB rules under 40 CFR part 761.

D. Emission Factors

1. The following table lists NO_x emission factors that shall apply to affected point sources located at affected facilities in the Baton Rouge Nonattainment Area or the Region of Influence:

NO _x Emission Factors		
Category	Maximum Rated Capacity	NO _x Emission Factor ^a
Electric Power Generating System Boilers:		
Coal-fired	>= 80 MMBtu/Hour	0.21 pound/MMBtu
Number 6 Fuel Oil-fired	>= 80 MMBtu/Hour	0.18 pound/MMBtu
All Others (gaseous or liquid)	>= 80 MMBtu/Hour	0.10 pound/MMBtu
Industrial Boilers	>= 80 MMBtu/Hour	0.10 pound/MMBtu
Process Heater/Furnaces:		
Ammonia Reformers	>= 80 MMBtu/Hour	0.23 pound/MMBtu
All Others	>= 80 MMBtu/Hour	0.08 pound/MMBtu
Stationary Gas Turbines	>= 10 MW	0.16 pound/MMBtu ^b
Stationary Internal Combustion Engines:		
Lean-burn	>= 1500 Hp	4g/Hp-hour
Rich-burn	>= 300 Hp	2g/Hp-hour

^a all factors are based on the higher heating value of the fuel.

^b equivalent to 42 ppmv (15 percent O₂, dry basis) with an F factor of 8710 dscf/MMBtu.

2. Any electric power generating system boiler that operates with a combination of fuels shall comply with an adjusted emission factor calculated as follows:

a. if a combination of fuels is used normally, the emission factor from Subsection D.1 of this Section shall be adjusted by the weighted average heat input of the fuels based on the ozone season average usage in 2000 and 2001, or another period if approved by the department;

b. if the boiler is normally fired with a primary fuel and a secondary fuel is available for back-up, the unit shall comply with the emission factor for the primary fuel while firing the primary fuel and with the emission factor for the secondary fuel while firing the secondary fuel. In addition, the usage of the secondary fuel shall be limited to the ozone season average usage of the secondary fuel in 2000 and 2001, or another period if approved by the department; and

c. in either case, if the secondary fuel is less than 10 percent of the weighted average, the owner or operator may choose to comply with the unadjusted limit for the primary fuel.

3. For affected point sources in an electric power generating system that fire gaseous or liquid fuels, the emission factors from Subsection D of this Section shall apply as the mass of NO_x emitted per unit of heat input (pound NO_x per MMBtu), on a 30-day rolling average basis. Alternatively, a facility may choose to comply with a ton per day or a pound per hour cap provided that monitoring is installed, calibrated, maintained, and operated to demonstrate compliance with the cap. The cap for a facility or for multiple facilities under common control is calculated

by adding the products of the factor from Subsection D.1 of this Section and the averaging capacity for each affected point source as follows:

Equation D-1

$$Cap (tpd) = 0.012 \times \sum_{i=1}^N (R_{li} \times HI_i)$$

Where:

HI_i = the averaging capacity of each point source (MMBtu/hour)

i = each point source included in the cap

N = the total number of point sources included in the cap

R_{li} = the limit for each point source from Subsection D of this Section (pound NO_x/MMBtu)

4. For all other affected point sources, including those in a coal-fired electric power generating system, the emission factors from Subsection D of this Section shall apply as the mass of NO_x emitted per unit of heat input (pound NO_x per MMBtu), on a 30-day rolling average basis. Alternatively, a facility may choose to comply with a cap as detailed in Subsection D.3 of this Section provided a system, approved by the department, is installed, calibrated, maintained, and operated to demonstrate compliance.

5. If one affected point source discharges in part or in whole to another affected point source, the portion discharging into the second point source shall be treated as emanating from the second point source and shall be controlled to the same limit as that specified for the second point source, while the portion discharging directly to the atmosphere from the first point source shall be controlled to the limit of the first point source. This term shall not include a combined cycle unit that discharges into a supplemental firing unit or other type of combustion equipment. For this type of point source, the emissions shall be controlled as follows:

a. for the turbines and/or engines, at the appropriate limits for the turbines and/or engines alone; and

b. for the supplemental firing unit or other type of combustion equipment, at the appropriate limit for the supplemental firing or combustion equipment with the measured emission values adjusted for the emissions coming from the turbines and/or engines.

6. Where a common stack is used to collect vents from affected point sources or affected point sources and exempt point sources and monitoring and/or testing of individual units is not feasible, the department, upon application from the owner or operator, shall specify alternative methods to demonstrate compliance with the emission factors of this Subsection.

7. Any affected point source firing gaseous fuel that contains hydrogen and/or carbon monoxide may apply a multiplier, as calculated below, to the appropriate emission factor given in Subsection D.1 of this Section. The total hydrogen and/or carbon monoxide volume in the gaseous fuel stream is divided by the total gaseous fuel flow volume to determine the volume percent of hydrogen and/or carbon monoxide in the fuel supply. In order to apply this multiplier, the owner or operator of the affected point source shall sample and analyze the fuel gas composition for hydrogen

and/or carbon monoxide in accordance with Subsection G.5 of this Section.

Equation D-2

$$\begin{aligned} & \text{If } (\text{Vol. \% } H_2 + \text{Vol. \% } CO) = \text{or} < 50 \\ & \quad \text{Then} \\ \text{fuel multiplier} &= 1 + \frac{0.5 \times (\text{Vol. \% } H_2 + \text{Vol. \% } CO)}{100} \\ & \quad \text{Otherwise} \\ \text{fuel multiplier} &= 1.25 \end{aligned}$$

8. The owner or operator of a stationary gas turbine using a fuel that has an F factor different than 8710 dscf/MMBtu may adjust the allowable emission factor shown in Subsection D.1 of this Section. The adjustment is made by dividing the actual F factor (dscf/MMBtu) of the fuel by 8710 and multiplying the result by 0.16 to get the adjusted allowable emission factor. The use of this option shall be detailed in the permit application or in the optional compliance plan described in Subsection F.7 of this Section.

9. On a day that is designated as an Ozone Action Day by the department, a facility shall not fire an affected point source with Number 6 Fuel Oil or perform testing of emergency and training combustion units without prior approval of the administrative authority.

E. Alternative Plans

1. Facility-Wide Averaging Plan. A facility-wide averaging plan is established in this Chapter for single affected facilities and multiple affected facilities that are owned or operated by the same entity. For sources located within the Baton Rouge Nonattainment Area and the Region of Influence, an owner or operator of one or more affected facilities may use the facility-wide averaging plan as an alternative means of compliance with the emission factors from Subsection D of this Section. A request for approval to use a facility-wide averaging plan, that includes the details of the plan, shall be submitted to the department either separately or with the permit application or in the optional compliance plan described in Subsection F.7 of this Section. A facility-wide averaging plan submitted under this provision shall be approved if the department determines that it will provide emission reductions equivalent to or more than that required by the emission factors in Subsection D of this Section and the plan establishes satisfactory means for determining initial and continuous compliance, including appropriate monitoring and recordkeeping requirements. Approval of the alternative plans by the administrative authority does not necessarily indicate automatic approval by the administrator.

a. An owner or operator who elects to use a facility-wide averaging plan for compliance shall establish an emission factor for each applicable affected point source such that if each affected point source was operated at its averaging capacity, the cumulative emission factor in pounds NO_x/MMBtu from all point sources in the averaging group would not exceed the facility-wide emission factor, as shown in Equation E-3. The equations below shall be used to calculate the cumulative emission rate and the facility-wide emission factor.

$$FL = \sum_{i=1}^N (R_{li} \times f_i) \quad \text{Equation E-1}$$

Where:

$$f_i = HI_i / \sum_{i=1}^N HI_i \quad \text{Equation E-2}$$

$$\sum_{i=1}^N (R_{ai} \times f_i) \leq FL \quad \text{Equation E-3}$$

Where:

- f_i = fraction of total system averaging capacity for point source i
- HI_i = the averaging capacity of each point source (MMBtu/hour)
- i = each point source in the averaging group
- N = the total number of point sources in the averaging group
- R_{ai} = the limit assigned by the owner to each point source in the averaging plan (pound NO_x /MMBtu)
- R_{fi} = the limit for each point source from Subsection D of this Section (pound NO_x /MMBtu)
- FL = facility-wide emission factor (pound NO_x /MMBtu) of all point sources included in the averaging plan

b. An owner or operator of an electric power generating system that fires gaseous or liquid fuels and that chooses to use an averaging plan shall demonstrate compliance by either of the following methods:

i. operating such that each affected point source does not exceed its assigned individual limit in pound NO_x /MMBtu on a 30-day rolling average basis; or

ii. complying with a cap as described in Subsection D.3 of this Section, provided that a monitoring system is installed, calibrated, maintained, and operated to demonstrate compliance with the cap.

c. Owners or operators of all other affected point sources, including those in a coal-fired electric power generating system, that choose to use an averaging plan shall demonstrate compliance by either of the following methods:

i. operating such that each affected point source does not exceed its assigned individual limit in pound NO_x /MMBtu on a 30-day rolling average basis; or

ii. complying with a cap as described in Subsection D.4 of this Section, provided a system, approved by the department, is installed, calibrated, maintained, and operated to demonstrate compliance with the cap.

d. An owner or operator that chooses to use the provisions of Subsection E.1.b.i or c.i of this Section to demonstrate compliance in an averaging plan shall include in the submitted plan a description of the actions that will be taken if any under-controlled unit is operated at more than 10 percent above its averaging capacity (HI_i in Subsection E.1.a of this Section). Such actions may include a comparison of the total current emissions from all units in the averaging plan to the total emissions that would result if the units in the plan were operated in accordance with Subsection D of this Section, other reviews, reporting, and/or mitigation actions. If the department determines that the actions are not adequate to prevent an increase of emissions over the total emissions that would result if the units were operated in accordance with Subsection D of this Section, the department shall require that the averaging plan

and/or the action plan be revised or shall disallow the use of the averaging plan.

e. The owner or operator of affected point sources complying with the requirements of this Subsection can include in the plan either all of the affected point sources at the facility or select only certain sources to be included.

f. NO_x reductions accomplished after 1997 through curtailments in capacity of a point source with a permit revision or by permanently shutting down the point source may be included in the averaging plan. In order to include a unit with curtailed capacity in the averaging plan, the old averaging capacity, determined from the average of the two ozone seasons prior to the capacity curtailment or such other two-year period approved by the department, shall be used to calculate the unit's contribution to the term FL . The new averaging capacity, determined from the enforceable permit revision, shall be multiplied by the owner assigned limit to calculate the contribution of the curtailed unit to the cumulative emission factor for the averaging group.

g. NO_x reductions from exempted point sources, as defined in Subsection C of this Section, may be used in a facility-wide averaging plan. If a unit exempted in Subsection C of this Section is included in an averaging

plan, the term R_i in Equation E-1 shall be established, in accordance with Subsection G of this Section, from a stack test or other determination of emissions approved by the department that was performed before the NO_x reduction project was implemented and the term R_{ai} shall be established from the owner-assigned emission factor in accordance with Subsection E.1.a of this Section.

h. Solely for the purpose of calculating the facility-wide emission factor, the allowable emission factor (pound NO_x /MMBtu) for each affected stationary internal combustion engine is the applicable NO_x emission factor from Subsection D of this Section (g/Hp-hour) divided by the product of the engine manufacturer's rated heat rate (expressed in Btu/Hp-hour) at the engine's Hp rating and 454×10^6 .

i. The owner or operator of affected point sources complying with the requirements of this Subsection in accordance with an emissions averaging plan shall carry out recordkeeping that includes, but is not limited to, a record of the data on which the determination of each point source's hourly, daily, or 30-day, as appropriate, compliance with the facility-wide averaging plan is based.

2. Trading Plan. Trading is established in this Chapter as an alternate means of compliance with the emission factors from Subsection D of this Section. Within the Baton Rouge Nonattainment Area and the Region of Influence, trading allowances, as defined in Subsection B of this Section, may be traded between affected facilities owned by different companies in accordance with the provisions of LAC 33:III.Chapter 6. The approval to use trading shall be requested in the permit application or in the optional compliance plan described in Subsection F.7 of this Section. A trading plan submitted under this provision shall be approved if the department determines that it will provide NO_x emission reductions equivalent to or more than that required by the emission factors of Subsection D of this Section and the plan establishes satisfactory means for determining ongoing compliance, including appropriate

monitoring and recordkeeping requirements. Approval of trading plans by the administrative authority does not necessarily indicate automatic approval of the administrator.

F. Permits

1. Authorization to Install and Operate NO_x Control Equipment

a. An owner or operator may obtain approval to install and operate NO_x control equipment that does not result in ammonia emissions above the minimum emission rate (MER) in LAC 33:III.Chapter 51 by submitting documentation in accordance with LAC 33:III.511. This documentation shall include an estimate of any carbon monoxide (CO), sulfur dioxide (SO₂), particulate matter (PM₁₀), and/or volatile organic compound (VOC) emission increases associated with the NO_x control technology. If approved, the administrative authority shall grant an authorization to construct and operate in accordance with LAC 33:III.501.C.3. Any appropriate permit revision reflecting the emission reduction shall be submitted to the department and deemed administratively complete no later than 180 days after commencement of operation and in accordance with the procedures of LAC 33:III.Chapter 5.

b. In accordance with LAC 33:III.511.C, installation of NO_x control equipment that results in ammonia emissions above the MER in LAC 33:III.Chapter 51 shall not commence until a permit or permit modification has been approved by the administrative authority. In accordance with LAC 33:III.5107.D.1, the administrative authority shall provide at least 30 days for public comment before issuing any such permit.

2. Alternatively to Subsection F.1.a of this Section, an owner or operator of an affected facility that is operating with a Louisiana air permit may submit a completed permit modification application for the changes proposed to comply with this Chapter.

3. Any owner or operator with an affected facility that has retained grandfathered status, as described in LAC 33:III.501.B.6, shall submit an application in accordance with LAC 33:III.501.C.1 for the changes proposed to comply with this Chapter.

4. Duty to Supplement. In accordance with LAC 33:III.517.C, if an owner or operator has a permit application on file with the department, but the department has not released the proposed permit, the applicant shall supplement the application as necessary to address this Chapter.

5. Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) Considerations. A significant net emissions increase in CO, SO₂, PM₁₀, and/or VOC in accordance with LAC 33:III.504 or 509, that is a direct result of, and incidental to, the installation of NO_x control equipment or implementation of a NO_x control technique required to comply with the provisions of this Chapter shall be exempt from the requirements of LAC 33:III.509 and/or 504, as appropriate, provided the following conditions are met:

- a. the project shall not:
 - i. cause or contribute to a violation of the national ambient air quality standard (NAAQS); or
 - ii. adversely affect visibility or other air quality related value (AQRV) in a class I area;

b. any increase in CO, SO₂, PM₁₀, and/or VOC emissions shall be:

- i. quantified in the submittal required by Subsection F.1-4 of this Section; and

- ii. tested in accordance with Subsection G of this Section, as applicable;

- c. notwithstanding the requirements of Table 1 of LAC 33:III.504, any increase of VOC emissions at an affected facility located in the Baton Rouge Nonattainment Area shall be offset at a ratio of at least 1:1. Offsets shall be surplus, permanent, quantifiable, and federally enforceable and calculated in accordance with LAC 33:III.Chapter 6; and

- d. a 30-day public comment period shall be provided in accordance with LAC 33:III.519.C prior to issuance of a permit or permit modification.

6. Increases above the MER in toxic air pollutant (TAP) emissions shall be subject to the applicable requirements of LAC 33:III.Chapter 51.

7. When pre-permit application approval of plans is desired by an owner or operator, a compliance plan may be submitted in accordance with this Subsection. The administrative authority shall approve the plan if it contains all of the required information to determine that the affected sources will be in compliance with this Chapter and is accurate. The compliance plan may address individual point sources, groups of point sources, or all point sources at the facility, as determined by the owner. The following information shall be submitted as appropriate:

- a. the facility designation, as indicated by the identification number, submitted to the Office of Environmental Services, Permits Division;

- b. a list of all units in the compliance plan, the emission point number as designated on the emission inventory questionnaire, the averaging capacity, and the maximum rated capacity;

- c. identification of all combustion units with a claimed exemption in accordance with Subsection C of this Section, and the rule basis for the claimed exemption;

- d. a list of any units that have been, or will be, curtailed or permanently shut down;

- e. for each unit, the actual emission factor that will be used to achieve compliance;

- f. the control technology to be applied for each unit subject to control, and an anticipated construction schedule for each control device including the dates for completion of engineering, submission of permit applications, start and finish of construction, and initial start-up; and

- g. the calculations to demonstrate that each unit will achieve the required NO_x emission rate.

G Initial Demonstration of Compliance

1. Emissions testing to demonstrate initial compliance with the NO_x emission factors of Subsection D of this Section, or with emission limits that are part of an alternative plan under Subsection E of this Section, for affected point sources operating with a CEMS or PEMS that has been certified in accordance with Subsection H of this Section is not required. The certification of the CEMS or PEMS shall be considered demonstration of initial compliance. Testing for initial compliance is not required for an existing CEMS or PEMS that meets the requirements of Subsection H of this Section.

2. Emissions testing is required for all point sources that are subject to the emission limitations of Subsection D of this Section or used in one of the alternative plans of Subsection E of this Section. Test results must demonstrate that actual NO_x emissions are in compliance with the appropriate limits of this Chapter. As applicable, CO, SO₂, PM₁₀, oxygen (O₂), NH₃, and VOC shall also be measured. Performance testing of these point sources shall be performed in accordance with the schedule specified in Subsection J of this Section.

3. The tests required by Subsection G.2 of this Section shall be performed by the test methods referenced in Subsection G.5 of this Section, except as approved by the administrative authority in accordance with Subsection G.7 of this Section. Test results shall be reported in the units of the applicable emission factors and for the corresponding averaging periods.

4. Emission testing conducted in the three years prior to the initial demonstration of compliance date may be used to demonstrate compliance with the limits of Subsection D or E of this Section, if the owner or operator demonstrates to the department that the prior testing meets the requirements of this Subsection. The request to waive emissions testing according to this Paragraph shall be included in the permit application. The department reserves the right to request performance testing or CEMS performance evaluation upon 60 days notice.

5. Compliance with the emission specifications of Subsection D or E of this Section for affected point sources operating without CEMS or PEMS shall be demonstrated while operating at the maximum rated capacity, or as near thereto as practicable. The stack tests shall be performed according to emissions testing guidelines located on the department website in the technology section. Three minimum one-hour tests shall be performed and the following methods from 40 CFR part 60, appendix A shall be used:

- a. Methods 1, 2, 3, and 4 or 19, with prior approval, for exhaust gas flow;
- b. Method 3A or 20 for O₂;
- c. Method 5 for PM;
- d. Method 6C for SO₂;
- e. Method 7E or 20 for NO_x;
- f. Method 10 or 10A for CO;
- g. Method 18 or 25A for VOC;
- h. modified Method 5, or a department-approved equivalent, for NH₃; and/or
- i. American Society of Testing and Materials (ASTM) Method D1945-96 or ASTM Method D2650-99 for fuel composition; ASTM Method D1826-94 or ASTM Method D3588-98 for calorific value.

6. All alternative or equivalent test methods, waivers, monitoring methods, testing and monitoring procedures, customized or correction factors, and alternatives to any design, equipment, work practices, or operational standards must be approved by both the administrative authority and the administrator, if applicable, before they become effective.

7. An owner or operator may request approval from the department for minor modifications to the test methods listed in Subsection G.5 of this Section, including alternative

sampling locations and testing a subset of similar affected sources, prior to actual stack testing.

8. The information required in this Subsection shall be provided in accordance with the effective dates in Subsection J of this Section.

H. Continuous Demonstration of Compliance. After the initial demonstration of compliance required by Subsection G of this Section, continuous compliance with the emission factors of Subsection D or E of this Section, as applicable, shall be demonstrated by the methods described in this Subsection. For any alternative method, the department's approval does not necessarily constitute compliance with all federal requirements nor eliminate the need for approval by the administrator.

1. The owner or operator of boilers that are subject to this Chapter and that have a maximum rated capacity that is equal to or greater than 80 MMBtu/hour shall demonstrate continuous compliance as follows:

a. for boilers with a maximum rated capacity less than 250 MMBtu/hour:

- i. install, calibrate, maintain, and operate a totalizing fuel meter to continuously measure fuel usage;
- ii. install, calibrate, maintain, and operate an oxygen monitor to measure oxygen concentration; and
- iii. in order to continuously demonstrate compliance with the NO_x limits of Subsection D or E of this Section, implement procedures to operate the boiler within the fuel and oxygen limits established during the initial compliance run in accordance with Subsection G of this Section; and

b. for boilers with a maximum rated capacity equal to or greater than 250 MMBtu/hour:

- i. install, calibrate, maintain, and operate a totalizing fuel meter to continuously measure gas and/or liquid fuel usage. For coal-fired boilers, belt scales or an equivalent device shall be provided;
- ii. install, calibrate, maintain, and operate a diluent (either oxygen or carbon dioxide) monitor. The monitor shall meet all of the requirements of performance specification 3 of 40 CFR 60, appendix B;
- iii. install, calibrate, maintain, and operate a NO_x CEMS to demonstrate continuous compliance with the NO_x emission factors of Subsection D or E of this Section, as applicable. The CEMS shall meet all of the requirements of 40 CFR part 60.13 and performance specification 2 of 40 CFR 60, appendix B; and

iv. install, calibrate, maintain, and operate a CO monitor. The monitor shall meet all of the requirements of performance specification 4 of 40 CFR 60, appendix B; or

v. alternatively to Subsection H.1.b.ii-iv of this Section, for demonstration of continuous compliance, the owner or operator may install, calibrate, certify, maintain, and operate a PEMS to predict NO_x, diluent (O₂ or CO₂), and CO emissions for each affected point source. As an alternative to using the PEMS to monitor diluent (O₂ or CO₂), a monitor for diluent according to Subsection H.1.b.ii of this Section or similar alternative method approved by the department may be used. The PEMS shall be certified while operating on primary boiler fuel and, separately, on any alternative fuel. The certification shall be in accordance with EPA documents, "Example Specifications and Test Procedures for Predictive Emission Monitoring Systems"

and "Predictive Emission Monitoring System to Determine NO_x and CO Emissions from an Industrial Furnace" that are located on the EPA website in the emission monitoring section, both with posting dates of July 31, 1997; or

vi. alternatively to Subsection H.1.b.ii-iv of this Section, the owner or operator may request approval from the administrator for an alternative monitoring plan that uses a fuel-oxygen operating window to demonstrate continuous compliance of NO_x and CO. The corners of the window shall be established during the initial compliance test required by Subsection G of this Section or similar testing at another time. The details for use of an alternative monitoring plan shall be submitted in the permit application or in the optional compliance plan described in Subsection F.7 of this Section. The plan shall become part of the facility permit and shall be federally enforceable.

2. The owner or operator of process heater/furnaces that are subject to this Chapter and that have a maximum rated capacity that is equal to or greater than 80 MMBtu/hour shall demonstrate continuous compliance as follows:

a. for process heater/furnaces with a maximum rated capacity less than 250 MMBtu/hour:

i. install, calibrate, maintain, and operate a totalizing fuel meter to continuously measure fuel usage;

ii. install, calibrate, maintain, and operate an oxygen monitor to measure oxygen concentration; and

iii. in order to continuously demonstrate compliance with the NO_x limits of Subsection D or E of this Section, implement procedures to operate the process heater/furnace within the fuel and oxygen limits established during the initial compliance run in accordance with Subsection G of this Section; and

b. for process heater/furnaces with a maximum rated capacity equal to or greater than 250 MMBtu/hour:

i. install, calibrate, maintain, and operate a totalizing fuel meter to continuously measure fuel usage;

ii. install, certify, maintain, and operate an oxygen or carbon dioxide diluent monitor in accordance with the requirements of Subsection H.1.b.ii of this Section;

iii. install, certify, maintain, and operate a NO_x CEMS in accordance with the requirements of Subsection H.1.b.iii of this Section; and

iv. install, certify, maintain, and operate a CO monitor in accordance with the requirements of Subsection H.1.b.iv of this Section; or

v. alternatively to Subsection H.2.b.ii-iv of this Section, the owner or operator may install, calibrate, certify, maintain, and operate a PEMS in accordance with the requirements of Subsection H.1.b.v of this Section; or

vi. alternatively to Subsection H.2.b.ii-iv of this Section, the owner or operator may request approval from the department for an alternative monitoring plan that uses a fuel-oxygen operating window, or other system, to demonstrate continuous compliance of NO_x and CO. The corners of the window shall be established during the initial compliance test required by Subsection G of this Section or similar testing at another time. The details for use of an alternative monitoring plan shall be submitted in the permit application or in the optional compliance plan described in Subsection F.7 of this Section. The plan shall become part of the facility permit and shall be federally enforceable.

3. The owner or operator of stationary gas turbines that are subject to this Chapter and that have a megawatt rating based on heat input that is equal to or greater than 10 MW shall demonstrate continuous compliance as follows:

a. for stationary gas turbines with a megawatt rating based on heat input less than 30 MW:

i. if the stationary gas turbine uses steam or water injection to comply with the NO_x emission factors, install, calibrate, maintain, and operate a continuous system to monitor and record the average hourly fuel and steam or water consumption and the water or steam to fuel ratio. To demonstrate continuous compliance with the appropriate emission factor, the stationary gas turbine shall be operated at the required steam-to-fuel or water-to-fuel ratio as determined during the initial compliance test; and

ii. for other stationary gas turbines, install, calibrate, maintain, and operate a totalizing fuel meter to continuously measure fuel usage. Compliance with the emission factors of Subsection D or E of this Section shall be demonstrated by operating the turbine within the fuel limits established during the initial compliance run in accordance with Subsection G of this Section and by annual testing for NO_x and CO with an approved portable analyzer; or

iii. alternatively to Subsection H.3.a.i or ii of this Section, an owner or operator may choose to comply with the requirements of Subsection H.3.b.i-iv or v of this Section to demonstrate continuous compliance with the limits of Subsection D or E of this Section; and

b. for stationary gas turbines with a megawatt rating based on heat input of 30 MW or greater:

i. install, calibrate, maintain, and operate a totalizing fuel meter to continuously measure fuel usage;

ii. install, certify, maintain, and operate an oxygen or carbon dioxide diluent monitor in accordance with the requirements of Subsection H.1.b.ii of this Section;

iii. install, certify, maintain, and operate a NO_x CEMS in accordance with the requirements of Subsection H.1.b.iii of this Section; and

iv. install, certify, maintain, and operate a CO monitor in accordance with the requirements of Subsection H.1.b.iv of this Section; or

v. alternatively to Subsection H.3.b.ii-iv of this Section, the owner or operator may install, calibrate, certify, maintain, and operate a PEMS in accordance with the requirements of Subsection H.1.b.v of this Section; or

vi. alternatively to Subsection H.3.b.ii-iv of this Section, the owner or operator may request approval from the department for an alternative monitoring plan that complies with the provisions of Subsection H.3.a.i of this Section, if the turbine uses steam or water injection for compliance, or Subsection H.3.a.ii of this Section for other turbines. The alternative plan shall also require annual testing for NO_x and CO with an approved portable analyzer and triennial stack testing for NO_x and CO in accordance with the methods specified in Subsection G.5 of this Section. The details for use of an alternative monitoring plan shall be submitted in the permit application or in the optional compliance plan described in Subsection F.7 of this Section. The plan shall become part of the facility permit and shall be federally enforceable.

4. The owner or operator of stationary internal combustion engines that are subject to this Chapter and have a horsepower rating of 300 Hp or greater for rich-burn engines or 1500 Hp or greater for lean-burn engines shall demonstrate continuous compliance as follows:

a. install, calibrate, maintain, and operate a totalizing fuel meter to continuously measure fuel usage and demonstrate continuous compliance by operating the engine within the fuel limits established during the initial compliance run and by annual testing for NO_x and CO with an approved portable analyzer and by triennial stack testing for NO_x and CO in accordance with the methods specified in Subsection G.5 of this Section; or

b. alternatively to Subsection H.4.a of this Section, an owner or operator may choose to comply with the requirements of Subsection H.3.b.i-iv or v of this Section to demonstrate continuous compliance with the limits of Subsection D or E of this Section.

5. A CEMS unit may be used to monitor multiple point sources provided that each source is sampled at least once every 15 minutes and the arrangement is approved by the department.

6. Existing instrumentation for any requirement in this Subsection shall be acceptable upon approval of the department.

7. For any affected point source that uses a chemical reagent for reduction of NO_x, a NO_x CEMS, in accordance with Subsection H.1.b.iii of this Section, and a CO monitor, in accordance with Subsection H.1.b.iv of this Section, shall be provided.

8. Boilers or process heater/furnaces covered by this Chapter that discharge through a common stack shall meet the appropriate continuous monitoring requirements of Subsection H.1 or 2 of this Section, or an alternative approved by the department.

9. The owner or operator of any affected point source firing gaseous fuel for which a fuel multiplier from Subsection D.7 of this Section is used shall sample, analyze, and record the fuel gas composition on a daily basis or on an alternative schedule approved by the administrative authority. If an owner or operator desires to use an alternative sampling schedule, he shall specify a sampling frequency in his permit application and provide an explanation for the alternative schedule. Fuel gas analysis shall be performed according to the methods listed in Subsection G.5.g of this Section, or other methods that are approved by the department. A gaseous fuel stream containing 99 percent H₂ and/or CO by volume or greater may use the following procedure to be exempted from the sampling and analysis requirements of this Subsection:

a. a fuel gas analysis shall be performed initially using the test methods in Subsection G.5.g of this Section to demonstrate that the gaseous fuel stream is 99 percent H₂ and/or CO by volume or greater; and

b. the owner or operator shall certify that the fuel composition will continuously remain at 99 percent H₂ and/or CO by volume or greater during its use as a fuel to the point source.

10. All affected point sources that rely on periodic stack testing to demonstrate continuous compliance and use a catalyst to control NO_x emissions shall be tested after each occurrence of catalyst replacement. Portable analyzers shall

be acceptable for this check. Documentation shall be maintained on-site, if practical, of the date, the person doing the test, and the test results. Documentation shall be made available for inspection upon request.

11. The owner or operator of any low ozone season capacity factor boiler or process heater/furnace for which an exemption is granted shall install, calibrate, and maintain a totalizing fuel meter, with instrumentation approved by the department, and keep a record of the fuel input for each affected point source during each ozone season. The owner or operator of any boiler or process heater/furnace covered under this exemption shall notify the administrative authority within seven days if the Btu-per-ozone season limit is exceeded. If the Btu-per-ozone season limit is exceeded, the exemption shall be permanently withdrawn. Within 90 days after receipt of notification from the administrative authority of the loss of the exemption, the owner or operator shall submit a permit modification detailing how to meet the applicable emission factor as soon as possible, but no later than 24 months, after exceeding the Btu-per-ozone season limit. Included with this permit modification, the owner or operator shall submit a schedule of increments of progress for the installation of the required control equipment. This schedule shall be subject to the review and approval of the department.

12. The owner or operator of any affected point source that is granted an exemption for operating less than 400 hours during the ozone season shall install, calibrate, and maintain a nonresettable, elapsed run-time meter to record the operating time in order to demonstrate compliance. The owner or operator shall notify the administrative authority within seven days if the hours-per-ozone season limit is exceeded. If the hour-per-ozone season limit is exceeded, the exemption shall be permanently withdrawn. Within 90 days after receipt of notification from the administrative authority of the loss of the exemption, the owner or operator shall submit a permit modification detailing how to meet the applicable emission factor as soon as possible, but no later than 24 months, after exceeding the limit. Included with this permit modification, the owner or operator shall submit a schedule of increments of progress for the installation and operation of the required control equipment. This schedule shall be subject to the review and approval of the department.

I. Notification, Recordkeeping, and Reporting Requirements

1. The owner or operator of an affected point source shall notify the department at least 30 days prior to any compliance testing conducted under Subsection G of this Section and any CEMS or PEMS performance evaluation conducted under Subsection H of this Section in order to give the department an opportunity to conduct a pretest meeting and observe the emission testing. All necessary sampling ports and such other safe and proper sampling and testing facilities as required by LAC 33:III.913, or alternatives approved by the department, shall be provided for the testing. The test report shall be submitted to the department within 60 days after completing the testing.

2. The owner or operator of an affected point source required to demonstrate continuous compliance in accordance with Subsection H of this Section shall submit a written report within 90 days of the end of each quarter to

the administrative authority for any noncompliance of the applicable emission limitations of Subsection D or E of this Section. The required information may be included in reports provided to the administrative authority to meet other requirements, so long as the report meets the deadlines and content requirements of this Paragraph. The report shall include the following information:

- a. description of the noncompliance;
- b. cause of the noncompliance;
- c. anticipated time that the noncompliance is expected to continue or, if corrected, the duration of the period of noncompliance; and
- d. steps taken to prevent recurrence of the noncompliance.

3. The owner or operator of an affected point source shall maintain records of all continuous monitoring, performance test results, hours of operation, and fuel usage rates for each affected point source. Such records shall be kept for a period of at least five years and shall be made available upon request by authorized representatives of the department. The emission monitoring (as applicable) and fuel usage records for each affected point source shall be recorded and maintained:

- a. hourly for affected point sources complying with an emission factor on an hourly basis;
- b. daily for affected point sources complying with an emission factor enforced on a daily average basis or on a 30-day rolling average basis; and
- c. monthly for affected point sources exempt from the emission specifications based on ozone season heat input or hours of operation per ozone season.

4. The owner or operator shall maintain the following records:

- a. records for a facility-wide averaging plan in accordance with Subsection E.1.i of this Section;
- b. records approved for a trading plan in accordance with Subsection E.2 of this Section; and
- c. records in accordance with Subsections H.7, 8, 9, 10, 11, and 12 of this Section.

5. Ammonia emissions resulting from the operation of a NO_x control equipment system shall be reported annually in accordance with LAC 33:III.5107.A.

J. Effective Dates

1. The owner or operator of an affected facility shall modify and/or install and bring into normal operation NO_x control equipment and/or NO_x monitoring systems in accordance with this Chapter as expeditiously as possible, but by no later than May 1, 2005.

2. The owner or operator shall complete all initial compliance testing, specified by Subsection G of this Section, for equipment modified with NO_x reduction controls or a NO_x monitoring system to meet the provisions of this Chapter within 60 days of achieving normal production rate or after the end of the shake down period, but in no event later than 180 days after initial start-up. Required testing to demonstrate the performance of existing, unmodified equipment shall be completed in a timely manner, but by no later than November 1, 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:290 (February 2002), repromulgated LR 28:451 (March 2002).

J. Dale Givens
Secretary

0203#090

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Dissolved Oxygen Criteria for Beaucoup Creek,
Middle Fork Bayou D'Arbonne,
Bayou Cocodrie, and Cocodrie Lake
(LAC 33:IX.1123)(WQ042)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Water Quality regulations, LAC 33:IX.1123.C.3.Table 3 (Log #WQ042).

The numerical dissolved oxygen criteria for two Water Quality Management Subsegments in the Ouachita Basin (Beaucoup Creek, 081503, and Middle Fork Bayou D'Arbonne, 080610) and two subsegments in the Vermillion-Teche Basin (Bayou Cocodrie, 060201, and Cocodrie Lake, 060102) are being revised. Use Attainability Analyses of these subsegments have determined that naturally dystrophic critical periods for dissolved oxygen occur during parts of each year. While these water bodies exhibit naturally occurring seasonal variations in dissolved oxygen, no changes in designated uses are proposed. As part of the Louisiana Water Quality Management Plan, the State publishes a list of priority water bodies biennially under the Clean Water Act Section 305(b). In accordance with the Clean Water Act Section 303(d), water bodies are placed on a list of priority water bodies when assessment methodology indicates that they do not meet applicable water quality standards. After further review and assessment, some of these water bodies may be prioritized for fieldwork, Use Attainability Analyses, and Total Maximum Daily Load development. Until a Use Attainability Analysis is conducted to determine attainable uses and criteria, a Total Maximum Daily Load based upon national criteria may be inappropriate for many water bodies. Beaucoup Creek (081503), Middle Fork Bayou D'Arbonne (080610), Bayou Cocodrie (060201), and Cocodrie Lake (060102) have been classified as the highest priority on Louisiana's 303(d) list. Use Attainability Analyses have been conducted for these water bodies to determine the appropriate dissolved oxygen criteria. The Use Attainability Analyses present the required information for site-specific dissolved oxygen water quality standards revisions in accordance with state and federal water quality regulations, policies, and guidance. The basis

and rationale for this Rule are to establish site-specific criteria for these subsegments developed as a result of the Use Attainability Analyses conducted for the sites.

This Rule meets an exception listed in R.S. 30:2019.D.(2) and R.S. 49:953.G.(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33
ENVIRONMENTAL QUALITY
Part IX. Water Quality
Chapter 11. Surface Water Quality Standards
§1123. Numerical Criteria and Designated Uses

* * *

[See Prior Text In A. - C.2]

3. Designated Uses. The following are the category definitions of Designated Uses that are used in Table 3 under the subheading "Designated Uses."

- AC Primary Contact Recreation
- BC Secondary Contact Recreation
- CC Propagation of Fish and Wildlife
- LC Limited Aquatic Life and Wildlife Use
- DC Drinking Water Supply
- EC Oyster Propagation
- FC Agriculture
- GC Outstanding Natural Resource Waters

Numbers in brackets, e.g. [1], refer to endnotes listed at the end of the table.

Table 3.
Numerical Criteria and Designated Uses

AC Primary Contact Recreation;
 BC Secondary Contact Recreation;
 CC Propagation Of Fish and Wildlife;
 DC Drinking Water Supply;

EC Oyster Propagation;
 FC Agriculture;
 GC Outstanding Natural Resource Waters;
 LC Limited Aquatic Life And Wildlife Use

Code	Stream Description	Designated Uses	Criteria						
			Cl	SO ₄	DO	pH	BAC	C	TDS
Atchafalaya River Basin (01)									
* * *									
[See Prior Text In 010101 – 050901]									
Vermilion-Teche River Basin (06)									
* * *									
[See Prior Text In 060101]									
060102	Cocodrie Lake	A B C	10	5	^[19]	6.0-8.5	1	32	100
060201	Bayou Cocodrie C From U.S. Hwy. 167 to the Bayou Boeuf C Cocodrie Diversion Canal (Scenic)	A B C G	45	35	^[19]	6.0-8.5	1	32	100
* * *									
[See Prior Text In 060202 – 070601]									
Ouachita River Basin (08)									
* * *									
[See Prior Text In 080101-080609]									
080610	Middle Fork of Bayou D'Arbonne C From origin to Bayou D'Arbonne Lake (Scenic)	A B C G	50	15	^[20]	6.0-8.5	1	32	200
* * *									
[See Prior Text In 080701 – 081502]									
081503	Beaucoup Creek C Headwaters to Castor Creek	A B C	25	25	^[21]	6.0-8.5	1	32	100
* * *									
[See Prior Text In 081504-120806]									

Endnotes:

* * *

[See Prior Text In [1] – [18](c)]

^[19] Designated Naturally Dystrophic Waters Segment; Seasonal DO Criteria: 5 mg/l November-March, 3.5 mg/l April-October.

^[20] Designated Naturally Dystrophic Waters Segment; Seasonal DO Criteria: 5 mg/l October-June, 3 mg/l July-September.

^[21] Designated Naturally Dystrophic Waters Segment; Seasonal DO Criteria: 5 mg/l October-June, 2.5 mg/l July-September.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074.B.(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:431 (April 1994), LR 20:883 (August 1994), LR 21:683 (July 1995), LR 22:1123 (November 1996), LR 24:1926 (October 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2401 (December 1999), LR 27:289 (March 2001), LR 28:462 (March 2002).

James H. Brent, Ph.D.
 Assistant Secretary

0203#063

RULE

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

Incorporation by Reference of 40 CFR 68
(LAC 33:III.5901)(AQ223*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality regulations, LAC 33:III.5901 (Log #AQ223*).

This Rule is identical to federal regulations found in 40 CFR Part 68, July 1, 2000, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953.F.(3) and (4).

This Rule incorporates by reference into LAC 33:III.5901 the corresponding federal regulations in 40 CFR Part 68, July 1, 2000. In order that Louisiana can maintain equivalency with the U.S. Environmental Protection Agency (EPA) for this Part, new federal regulations, along with current federal regulations, must be updated and adopted into the LAC. This rulemaking satisfies that requirement. This incorporation by reference of 40 CFR Part 68 is being done to keep Louisiana's Air Regulations current with their federal counterparts. The basis and rationale for this Rule are to maintain equivalency with the federal regulations.

This Rule meets an exception listed in R.S. 30:2019.D.(2) and R.S. 49:953.G.(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Title 33
ENVIRONMENTAL QUALITY
Part III. Air**

**Chapter 59. Chemical Accident Prevention and
Minimization of Consequences**

Subchapter A. General Provisions

**§5901. Incorporation by Reference of Federal
Regulations**

A. Except as provided in Subsection C of this Section, the department incorporates by reference 40 CFR Part 68 (July 1, 2000).

* * *

[See Prior Text in B - C.6]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:1124 (November 1996), repromulgated LR 22:1212 (December 1996), amended LR 24:652 (April 1998), LR 25:425 (March 1999), amended by the Office of Environmental

Assessment, Environmental Planning Division, LR 26:70 (January 2000), LR 26:2272 (October 2000), LR 28:463 (March 2002).

James H. Brent, Ph.D.
Assistant Secretary

0203#055

RULE

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

LPDES Phase II Streamlining
(LAC 33:IX.Chapter 23)(WP041*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., has amended the Water Quality regulations, LAC 33:IX.Chapter 23 (Log #WP041*).

This Rule is identical to federal regulations found in 65 FR 30886-30913, Number 94, May 15, 2000, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953.F.(3) and (4).

The Rule will streamline the LPDES program in the state regulations in accordance with the streamlining efforts of the EPA. This Rule will eliminate redundant regulatory language, provide clarification, and remove or streamline unnecessary procedures that do not provide any environmental benefits. This Rule is necessary to maintain the federal authorization of the LPDES program. The basis and rationale for this Rule are to mirror the federal regulations.

This Rule meets an exception listed in R.S. 30:2019.D.(2) and R.S. 49:953.G.(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Title 33
ENVIRONMENTAL QUALITY
Part IX. Water Quality**

**Chapter 23. The LPDES Program
Subchapter A. Definitions and General Program
Requirements**

§2311. Purpose and Scope

A. Scope of the LPDES Permit Requirement
1. The LPDES program requires permits for the discharge of pollutants from any point source into waters of the state. The terms pollutant, point source, and waters of the state are defined in LAC 33:IX.2313.

2. The permit program established under LAC 33:IX.Chapter 23.Subchapters A-D also applies to owners or operators of any treatment works treating domestic sewage, whether or not the treatment works is otherwise required to obtain an LPDES permit in accordance with Paragraph A.1 of this Section, unless all requirements

implementing Section 405(d) of the CWA applicable to the treatment works treating domestic sewage are included in a permit issued under the appropriate provisions of Subtitle C of the Solid Waste Disposal Act, Part C of the Safe Drinking Water Act, the Marine Protection, Research, and Sanctuaries Act of 1972, or the Clean Air Act, or under state permit programs approved by the administrator as adequate to assure compliance with section 405 of the CWA.

3. The state administrative authority may designate any person subject to the standards for sewage sludge use and disposal as a treatment works treating domestic sewage as defined in LAC 33:IX.2313, where he or she finds that a permit is necessary to protect public health and the environment from the adverse effects of sewage sludge or to ensure compliance with the technical standards for sludge use and disposal developed under CWA Section 405(d). Any person designated as a treatment works treating domestic sewage shall submit an application for a permit under LAC 33:IX.2331 within 180 days of being notified by the state administrative authority that a permit is required. The state administrative authority's decision to designate a person as a treatment works treating domestic sewage under this Paragraph shall be stated in the fact sheet or statement of basis for the permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:1523 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:463 (March 2002).

§2313. Definitions

A. The following definitions apply to LAC 33:IX.Chapter 23.Subchapters A-G. Terms not defined in this Section have the meaning given by the CWA.

[See Prior Text]

*Animal Feeding Operation*Ca lot or facility (other than an aquatic animal production facility) where the following conditions are met:

a. animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period; and

b. crops, vegetation forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

[See Prior Text]

*Aquaculture Project*Ca defined managed water area that uses discharges of pollutants into that designated area for the maintenance or production of harvestable freshwater, estuarine, or marine plants or animals.

[See Prior Text]

*Bypass*Cthe intentional diversion of waste streams from any portion of a treatment facility.

[See Prior Text]

*Concentrated Animal Feeding Operation*Can animal feeding operation that meets the criteria in LAC 33:IX.Chapter 23.Appendix B, or that the state administrative authority designates under LAC 33:IX.2335.C.

*Concentrated Aquatic Animal Production Facility*Ca hatchery, fish farm, or other facility that meets the criteria in LAC 33:IX.Chapter 23.Appendix C, or that the state administrative authority designates under LAC 33:IX.2337.C.

[See Prior Text]

*Municipal Separate Storm Sewer System*Ca defined at LAC 33:IX.2341.B.4 and 7.

[See Prior Text]

*Publicly Owned Treatment Works (POTW)*Ca treatment works, as defined by Section 212 of the Act, that is owned by a state or municipality [as defined by Section 502(4) of the Act]. This definition includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the municipality, as defined in Section 502(4) of the Act, that has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

[See Prior Text]

*Silvicultural Point Source*Ca defined at LAC 33:IX.2343.B.1.

[See Prior Text]

*Sludge-Only Facility*Ca any treatment works treating domestic sewage whose methods of sewage sludge use or disposal are subject to regulations promulgated in accordance with Section 405(d) of the CWA, and is required to obtain a permit under LAC 33:IX.2311.A.2.

[See Prior Text]

*Storm Water*Cstorm water runoff, snow melt runoff, and surface runoff and drainage.

*Storm Water Discharge Associated With Industrial Activity*Ca defined at LAC 33:IX.2341.B.14.

[See Prior Text]

*Upset*Can exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:722 (June 1997), LR 23:1523 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2755 (December 2000), LR 28:464 (March 2002).

§2317. Prohibitions

* * *

[See Prior Text in A-A.9.a]

b. the existing dischargers into that segment are subject to compliance schedules designed to bring the segment into compliance with applicable water quality standards. The state administrative authority may waive the submission of information by the new source or new discharger required by this Paragraph if the state administrative authority determines that the state administrative authority already has adequate information to evaluate the request. An explanation of the development of limitations to meet the criteria of this Paragraph is to be included in the fact sheet to the permit under LAC 33:IX.2445.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:465 (March 2002).

Subchapter B. Permit Application and Special LPDES Program Requirements

§2331. Application for a Permit

A. Duty to Apply

1. Any person who discharges or proposes to discharge pollutants or who owns or operates a sludge-only facility whose sewage sludge use or disposal practice is regulated by 40 CFR Part 503, and who does not have an effective permit, except persons covered by general permits under LAC 33:IX.2345, excluded under LAC 33:IX.2315, or a user of a privately owned treatment works unless the state administrative authority requires otherwise under LAC 33:IX.2361.M, must submit a complete application to the Office of Environmental Services, Permits Division in accordance with this Section and LAC 33:IX.Chapter 23.Subchapters E-G

* * *

[See Prior Text In A.2-G.6]

7. Effluent Characteristics

a. Information on the discharge of pollutants specified in this Subparagraph (except information on storm water discharges that is to be provided as specified in LAC 33:IX.2341). When quantitative data for a pollutant are required, the applicant must collect a sample of effluent and analyze it for the pollutant in accordance with analytical methods approved under 40 CFR Part 136 (See LAC 33:IX.2531). When no analytical method is approved, the applicant may use any suitable method, but must provide a description of the method. When an applicant has two or more outfalls with substantially identical effluents, the state administrative authority may allow the applicant to test only one outfall and report that the quantitative data also apply to the substantially identical outfall. The requirements in Subparagraph G.7.f and g of this Section that an applicant must provide quantitative data for certain pollutants known or believed to be present do not apply to pollutants present in a discharge solely as the result of their presence in intake water; however, an applicant must report such pollutants as present. Grab samples must be used for pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, fecal coliform, and fecal streptococcus. For all other pollutants,

24-hour composite samples must be used. However, a minimum of one grab sample may be taken for effluents from holding ponds or other impoundments with a retention period greater than 24 hours. In addition, for discharges other than storm water discharges, the state administrative authority may waive composite sampling for any outfall for which the applicant demonstrates that the use of an automatic sampler is infeasible and that the minimum of four grab samples will be a representative sample of the effluent being discharged.

b. Storm Water Discharges. For storm water discharges, all samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inch and at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where feasible, the variance in the duration of the event and the total rainfall of the event should not exceed 50 percent from the average or median rainfall event in that area. For all applicants, a flow-weighted composite shall be taken for either the entire discharge or for the first three hours of the discharge. The flow-weighted composite sample for a storm water discharge may be taken with a continuous sampler or as a combination of a minimum of three sample aliquots taken in each hour of discharge for the entire discharge or for the first three hours of the discharge, with each aliquot being separated by a minimum period of 15 minutes (applicants submitting permit applications for storm water discharges under LAC 33:IX.2341.D may collect flow weighted composite samples using different protocols with respect to the time duration between the collection of sample aliquots, subject to the approval of the state administrative authority). However, a minimum of one grab sample may be taken for storm water discharges from holding ponds or other impoundments with a retention period greater than 24 hours. For a flow-weighted composite sample, only one analysis of the composite of aliquots is required. For storm water discharge samples, taken from discharges associated with industrial activities, quantitative data must be reported for the grab sample taken during the first 30 minutes (or as soon thereafter as practicable) of the discharge for all pollutants specified in LAC 33:IX.2341.C.1. For all storm water permit applicants taking flow-weighted composites, quantitative data must be reported for all pollutants specified in LAC 33:IX.2341 except pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, fecal coliform, and fecal streptococcus. The state administrative authority may allow or establish appropriate site-specific sampling procedures or requirements, including sampling locations, the season in which the sampling takes place, the minimum duration between the previous measurable storm event and the storm event sampled, the minimum or maximum level of precipitation required for an appropriate storm event, the form of precipitation sampled (snow melt or rain fall), protocols for collecting samples under 40 CFR Part 136 (see LAC 33:IX.2531), and additional time for submitting data on a case-by-case basis. An applicant is expected to know or have reason to believe that a pollutant is present in an effluent based on an evaluation of the expected use, production, or storage of the pollutant, or on any previous analyses for the pollutant. (For example, any pesticide manufactured by a facility may be expected to be present in contaminated storm water runoff from the facility.)

c. Reporting Requirements. Every applicant must report quantitative data for every outfall for the following pollutants:

- i. biochemical oxygen demand (BOD₅);
- ii. chemical oxygen demand;
- iii. total organic carbon;
- iv. total suspended solids;
- v. ammonia (as N);
- vi. temperature (both winter and summer); and
- vii. pH.

d. The state administrative authority may waive the reporting requirements for individual point sources or for a particular industry category for one or more of the pollutants listed in Subparagraph G.7.c of this Section if the applicant has demonstrated that such a waiver is appropriate because information adequate to support issuance of a permit can be obtained with less stringent requirements.

e. Each applicant with processes in one or more primary industry category (see Appendix A of this Chapter) contributing to a discharge must report quantitative data for the following pollutants in each outfall containing process wastewater:

i. the organic toxic pollutants in the fractions designated in Appendix D, Table I of this Chapter for the applicant's industrial category or categories unless the applicant qualifies as a small business under Paragraph G.8 of this Section. Appendix D, Table II of this Chapter lists the organic toxic pollutants in each fraction. The fractions result from the sample preparation required by the analytical procedure that uses gas chromatography/mass spectrometry. A determination that an applicant falls within a particular industrial category for the purposes of selecting fractions for testing is not conclusive as to the applicant's inclusion in that category for any other purposes. [See Notes 2 and 3 of this Section.]

ii. the pollutants listed in Appendix D, Table III of this Chapter (the toxic metals, cyanide, and total phenols).

f.i. Each applicant must indicate whether it knows or has reason to believe that any of the pollutants in Appendix D, Table IV of this Chapter (certain conventional and nonconventional pollutants) are discharged from each outfall. If an applicable effluent limitations guideline either directly limits the pollutant or, by its express terms, indirectly limits the pollutant through limitations on an indicator, the applicant must report quantitative data. For every pollutant discharged that is not so limited in an effluent limitations guideline, the applicant must either report quantitative data or briefly describe the reasons the pollutant is expected to be discharged.

ii. Each applicant must indicate whether it knows or has reason to believe that any of the pollutants listed in Appendix D, Table II or III of this Chapter (the toxic pollutants and total phenols) for which quantitative data are not otherwise required under Subparagraph G.7.e of this Section, are discharged from each outfall. For every pollutant expected to be discharged in concentrations of 10 ppb or greater the applicant must report quantitative data. For acrolein, acrylonitrile, 2,4-dinitrophenol, and 2-methyl-4,6-dinitrophenol, where any of these four pollutants are expected to be discharged in concentrations of 100 ppb or greater the applicant must report quantitative data. For every pollutant expected to be discharged in concentrations less

than 10 ppb, or in the case of acrolein, acrylonitrile, 2,4-dinitrophenol, and 2-methyl-4,6-dinitrophenol, in concentrations less than 100 ppb, the applicant must either submit quantitative data or briefly describe the reasons the pollutant is expected to be discharged. An applicant qualifying as a small business under Paragraph G.8 of this Section is not required to analyze for pollutants listed in Appendix D, Table II of this Chapter (the organic toxic pollutants).

g. Each applicant must indicate whether it knows or has reason to believe that any of the pollutants in Appendix D, Table V of this Chapter (certain hazardous substances and asbestos) are discharged from each outfall. For every pollutant expected to be discharged, the applicant must briefly describe the reasons the pollutant is expected to be discharged, and report any quantitative data it has for any pollutant.

h. Each applicant must report qualitative data, generated using a screening procedure not calibrated with analytical standards, for 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) if it:

i. uses or manufactures 2,4,5-trichlorophenoxy acetic acid (2,4,5,-T); 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5,-TP); 2-(2,4,5 trichlorophenoxy) ethyl, 2,2-dichloropropionate (Erbon); O,O-dimethyl O-(2,4,5-trichlorophenyl) phosphorothioate (Ronnel); 2,4,5-trichlorophenol (TCP); or hexachlorophene (HCP); or

ii. knows or has reason to believe that TCDD is or may be present in an effluent.

8. Small Business Exemption. An applicant that qualifies as a small business under one of the following criteria is exempt from the requirements in Clause G.7.e.i or f.i of this Section to submit quantitative data for the pollutants listed in Appendix D, Table II of this Chapter (the organic toxic pollutants):

* * *

[See Prior Text in G.8.a - O]

NOTE 1: At 46 FR 2046, Jan. 8, 1981, the Environmental Protection Agency suspended until further notice 40 CFR 122.21(g)(7)(v)(A) (and the department hereby suspends LAC 33:IX.2331.G.7.e.i) and the corresponding portions of Item V-C of the NPDES (and LPDES) application Form 2C as they apply to coal mines. This revision continues that suspension.¹

NOTE 2: At 46 FR 22585, Apr. 20, 1981, the Environmental Protection Agency suspended until further notice 40 CFR 122.21(g)(7)(v)(A) (and the department hereby suspends LAC 33:IX.2331.G.7.e.i) and the corresponding portions of Item V-C of the NPDES (and LPDES) application Form 2C as they apply to:

* * *

[See Prior Text in Note 2.a - c]

This revision continues that suspension.¹

NOTE 3: At 46 FR 35090, July 1, 1981, the Environmental Protection Agency suspended until further notice 40 CFR 122.21(g)(7)(v)(A) (and the department hereby suspends LAC 33:IX.2331.G.7.e.i) and the corresponding portions of Item V-C of the NPDES (and LPDES) application Form 2C as they apply to:

* * *

[See Prior Text in Note 3.a - e]

This revision continues that suspension.¹

¹ EDITORIAL NOTE: The words "This revision" refer to the document published at 48 FR 14153, Apr. 1, 1983.

* * *

[See Prior Text in P - Q.15]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:723 (June 1997), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2552 (November 2000), LR 26:2756 (December 2000), LR 27:45 (January 2001), LR 28:465 (March 2002).

§2333. Signatories to Permit Applications and Reports

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

b. the manager of one or more manufacturing, production, or operating facilities, provided: the manager is authorized to make management decisions that govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations and initiating and directing other comprehensive measures to ensure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and the authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

NOTE: The department does not require specific assignments or delegations of authority to responsible corporate officers identified in Subparagraph A.1.a of this Section. The agency will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the state administrative authority to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions under Subparagraph A.1.b of this Section rather than to specific individuals.

[See Prior Text in A.2 - D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:467 (March 2002).

§2335. Concentrated Animal Feeding Operations

[See Prior Text in A]

B. Two or more animal feeding operations under common ownership are considered, for the purposes of these regulations, to be a single animal feeding operation if they adjoin each other or if they use a common area or system for the disposal of wastes.

[See Prior Text in C - C.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:467 (March 2002).

§2337. Concentrated Aquatic Animal Production Facilities

[See Prior Text in A]

B. Reserved.

[See Prior Text in C - C.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:467 (March 2002).

§2339. Aquaculture Projects

[See Prior Text in A]

B. Definitions

Designated Project Area—the portions of the waters of the state within which the permittee or permit applicant plans to confine the cultivated species, using a method or plan or operation (including, but not limited to, physical confinement) that, on the basis of reliable scientific evidence, is expected to ensure that specific individual organisms comprising an aquaculture crop will enjoy increased growth attributable to the discharge of pollutants, and be harvested within a defined geographic area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:467 (March 2002).

§2341. Storm Water Discharges

[See Prior Text in A - B.7.b]

c. owned or operated by a municipality other than those described in Subparagraph B.7.a or b of this Section and that are designated by the state administrative authority as part of the large or medium municipal separate storm sewer system due to the interrelationship between the discharges of the designated storm sewer and the discharges from municipal separate storm sewers described under Subparagraph B.7.a or b of this Section. In making this determination the state administrative authority may consider the following factors:

[See Prior Text in B.7.c.i. - B.12]

13. Reserved.

[See Prior Text in B.14. - C]

1. Individual Application. Dischargers of storm water associated with industrial activity and with small construction activity are required to apply for an individual permit or seek coverage under a promulgated storm water general permit. Facilities that are required to obtain an individual permit, or any discharge of storm water that the

state administrative authority is evaluating for designation (see LAC 33:IX.2443.C) under Subparagraph A.1.e of this Section, and are not a municipal separate storm sewer shall submit an LPDES application in accordance with the requirements of LAC 33:IX.2331 as modified and supplemented by the provisions of this Paragraph.

[See Prior Text in C.1.a – a.v.(c)]

(d). any information on the discharge required under LAC 33:IX.2331.G.7.f and g;

[See Prior Text in C.1.a.v.(e) - (f)]

vi. operators of a discharge that is composed entirely of storm water are exempt from the requirements of LAC 33:IX.2331.G.2, 3, 4, 5, and 7.c, d, e, and h; and

[See Prior Text in C.1.a.vii - D.1.d.iv]

(a). a grid system consisting of perpendicular north-south and east-west lines spaced one-fourth mile apart shall be overlaid on a map of the municipal storm sewer system, creating a series of cells;

[See Prior Text in D.1.d.iv.(b) - 2.b]

c. Characterization Data. When quantitative data for a pollutant are required under Subclause D.2.c.i.(c) of this Section, the applicant must collect a sample of effluent in accordance with LAC 33:IX.2331.G.7 and analyze it for the pollutant in accordance with analytical methods approved under 40 CFR Part 136 (see LAC 33:IX.2531). When no analytical method is approved, the applicant may use any suitable method, but must provide a description of the method. The applicant must provide information characterizing the quality and quantity of discharges covered in the permit application, including:

[See Prior Text in D.2.c.i - d.iii.(a)]

(b). describe a monitoring program for storm water discharges associated with the industrial facilities identified in Subsection D.2.d.iii of this Section, to be implemented during the term of the permit, including the submission of quantitative data on the following constituents: any pollutants limited in effluent guidelines subcategories, where applicable; any pollutant listed in an existing LPDES permit for a facility; oil and grease, COD, pH, BOD₅, TSS, total phosphorus, total Kjeldahl nitrogen, nitrate plus nitrite nitrogen, and any information on discharges required under LAC 33:IX.2331.G.7.f and g.

[See Prior Text in D.2.d.iv - G.4.d]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

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§2345. General Permits

A. Coverage. The state administrative authority may issue a general permit in accordance with the following:

1. Area. The general permit shall be written to cover one or more categories or subcategories of discharges or sludge use or disposal practices or facilities described in the permit under Subparagraph A.2.b of this Section, except those covered by individual permits, within a geographic area. The area shall correspond to existing geographic or political boundaries, such as:

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

2. Sources. The general permit may be written to regulate one or more categories or subcategories of discharges, sludge use, disposal practices, or facilities, within the area described in Paragraph A.1 of this Section, where the sources within a covered subcategory of discharges are either:

- a. storm water point sources; or
- b. one or more categories or subcategories of point sources other than storm water point sources, or one or more categories or subcategories of treatment works treating domestic sewage, if the sources or treatment works treating domestic sewage within each category or subcategory all:

[See Prior Text in A.2.b.i - v]

3. Water Quality-Based Limits. Where sources within a specific category or subcategory of dischargers are subject to water quality-based limits imposed in accordance with LAC 33:IX.2361, the sources in that specific category or subcategory shall be subject to the same water quality-based effluent limitations.

4. Other Requirements

a. The general permit must clearly identify the applicable conditions for each category or subcategory of dischargers or treatment works treating domestic sewage covered by the permit.

b. The general permit may exclude specified sources or areas from coverage.

B. Administration

1. In General. General permits may be issued, modified, revoked and reissued, or terminated in accordance with applicable requirements of 40 CFR Part 124 or corresponding state regulations. Special procedures for issuance are found at 40 CFR 123.44 for states.

[See Prior Text in B.2 - C.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

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Subchapter C. Permit Conditions

§2355. Conditions Applicable to All Permits

The following conditions apply to all LPDES permits. Additional conditions applicable to LPDES permits are in LAC 33:IX.2357. All conditions applicable to LPDES

permits shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations (or the corresponding approved state regulations) must be given in the permit.

[See Prior Text in A - M]

1. Definitions

Severe Property Damage—substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

[See Prior Text in M.2 - N.4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:724 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2553 (November 2000), LR 28:468 (March 2002).

§2359. Establishing Permit Conditions

[See Prior Text in A]

B.1. For a state issued permit, an applicable requirement is a state statutory or regulatory requirement that takes effect prior to final administrative disposition of a permit. For a permit issued by EPA, an applicable requirement is a statutory or regulatory requirement (including any interim final regulation) that takes effect prior to the issuance of the permit. LAC 33:IX.2423 for the state and 40 CFR 124.14 for EPA (reopening of comment period) provides a means for reopening permit proceedings at the discretion of the state administrative authority when new requirements become effective during the permitting process and are of sufficient magnitude to make additional proceedings desirable. For state-administered and EPA-administered programs, an applicable requirement is also any requirement that takes effect prior to the modification or revocation and reissuance of a permit, to the extent allowed in LAC 33:IX.2383.

[See Prior Text in B.2 - C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:469 (March 2002).

§2361. Establishing Limitations, Standards, and Other Permit Conditions

A.1. Technology-based effluent limitations and standards based on effluent limitations and standards promulgated under Section 301 of the CWA or new source performance standards promulgated under Section 306 of the CWA, on case-by-case effluent limitations determined under Section 402(a)(1) of the CWA, or on a combination of the three, in accordance with LAC 33:IX.2469. For new sources or new dischargers, these technology-based limitations and

standards are subject to the provisions of 40 CFR 122.29(d) (protection period).

2. Monitoring Waivers for Certain Guideline-Listed Pollutants

a. The state administrative authority may authorize a discharger subject to technology-based effluent limitations guidelines and standards in a LPDES permit to forego sampling of a pollutant found in LAC 33:IX.2533 if the discharger has demonstrated through sampling and other technical factors that the pollutant is not present in the discharge or is present only at background levels from intake water and without any increase in the pollutant due to activities of the discharger.

b. This waiver is good only for the term of the permit and is not available during the term of the first permit issued to a discharger.

c. Any request for this waiver must be submitted when applying for a reissued permit or modification of a reissued permit. The request must demonstrate through sampling or other technical information, including information generated during an earlier permit term, that the pollutant is not present in the discharge or is present only at background levels from intake water and without any increase in the pollutant due to activities of the discharger.

d. Any grant of the monitoring waiver must be included in the permit as an express permit condition and the reasons supporting the grant must be documented in the permit's fact sheet or statement of basis.

e. This provision does not supersede certification processes and requirements already established in existing effluent limitations guidelines and standards.

[See Prior Text in B.1 - 2]

C. Reopener Clause. For any permit issued to a treatment works treating domestic sewage (including sludge-only facilities), the state administrative authority shall include a reopener clause to incorporate any applicable standard for sewage sludge use or disposal promulgated under Section 405(d) of the CWA. The state administrative authority may promptly modify or revoke and reissue any permit containing the reopener clause required by this Subsection if the standard for sewage sludge use or disposal is more stringent than any requirements for sludge use or disposal in the permit or controls a pollutant or practice not limited in the permit.

[See Prior Text in D - D.9]

E. Technology-Based Controls for Toxic Pollutants. Limitations established under Subsection A, B, or D of this Section, to control pollutants meeting the criteria listed in Paragraph E.1 of this Section. Limitations will be established in accordance with Paragraph E.2 of this Section. An explanation of the development of these limitations shall be included in the fact sheet under LAC 33:IX.2445.A.2.a.i.

1. Limitations must control all toxic pollutants that the state administrative authority determines (based on information reported in a permit application under LAC 33:IX.2331.G.7 or in a notification under LAC 33:IX.2357.A.1 or on other information) are or may be discharged at a level greater than the level that can be

achieved by the technology-based treatment requirements appropriate to the permittee under LAC 33:IX.2469.C; or

[See Prior Text in E.2 - J.3]

K. Best management practices (BMPs) to control or abate the discharge of pollutants when:

[See Prior Text in K.1 - 2]

- 3. numeric effluent limitations are infeasible; or
- 4. the practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the CWA and the LEQA.

NOTE: Additional technical information on BMPs and the elements of BMPs is contained in the following documents: Guidance Manual for Developing Best Management Practices (BMPs), October 1993, EPA No. 833/B-93-004, NTIS No. PB 94-178324, ERIC No. W498; Storm Water Management for Construction Activities: Developing Pollution Prevention Plans and Best Management Practices, September 1992, EPA No. 832/R-92-005, NTIS No. PB 92-235951, ERIC No. N482; Storm Water Management for Construction Activities, Developing Pollution Prevention Plans and Best Management Practices: Summary Guidance, EPA No. 833/R-92-001, NTIS No. PB 93-223550, ERIC No. W139; Storm Water Management for Industrial Activities; Developing Pollution Prevention Plans and Best Management Practices, September 1992; EPA No. 832/R-92-006, NTIS No. PB 92-235969, ERIC No. N477; Storm Water Management for Industrial Activities, Developing Pollution Prevention Plans and Best Management Practices: Summary Guidance, EPA No. 833/R-92-002, NTIS No. PB 94-133782, ERIC No. W492. Copies of these documents (or directions on how to obtain them) can be obtained by contacting either the Office of Water Resource Center (using the EPA document number as a reference) at (202) 260-7786 or the Educational Resources Information Center (ERIC) (using the ERIC number as a reference) at (800) 276-0462. Updates of these documents or additional BMP documents may also be available. A list of EPA BMP guidance documents is available on the Office of Water Management Home Page at <http://www.epa.gov/owm>. In addition, states may have BMP guidance documents. These EPA guidance documents are listed here only for informational purposes; they are not binding and EPA does not intend that these guidance documents have any mandatory regulatory effect by virtue of their listing in this note.

[See Prior Text in L - P]

Q. Navigation. Any conditions that the secretary of the Army considers necessary to ensure that navigation and anchorage will not be substantially impaired, in accordance with 40 CFR 124.59.

[See Prior Text in R - R.2]

S. In addition to the conditions established under LAC 33:IX.2359.A, each LPDES permit shall include conditions meeting the requirements in Subsections A - R of this Section, when applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:724 (June 1997), LR 23:1523 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2282 (October 2000), LR 26:2764 (December 2000), LR 28:469 (March 2002).

§2363. Calculating LPDES Permit Conditions

[See Prior Text in A - G.5]

H. Internal Waste Streams

1. When permit effluent limitations or standards imposed at the point of discharge are impractical or infeasible, effluent limitations or standards for discharges of pollutants may be imposed on internal waste streams before mixing with other waste streams or cooling water streams. In those instances, the monitoring required by LAC 33:IX.2361.I shall also be applied to the internal waste streams.

[See Prior Text in H.2 - I]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2554 (November 2000), LR 28:470 (March 2002).

Subchapter D. Transfer, Modification, Revocation and Reissuance, and Termination of Permits

§2383. Modification or Revocation and Reissuance of Permits

A. When the state administrative authority receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit (see LAC 33:IX.2355), receives a request for modification or revocation and reissuance under LAC 33:IX.2407, or conducts a review of the permit file) he or she may determine whether or not one or more of the causes listed in Subsections A and B of this Section for modification or revocation and reissuance or both exist. If cause exists, the state administrative authority may modify or revoke and reissue the permit accordingly, subject to the limitations of LAC 33:IX.2407.B, and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term (see LAC 33:IX.2407.B.2). If cause does not exist under this Section or LAC 33:IX.2385, the state administrative authority shall not modify or revoke and reissue the permit. If a permit modification satisfies the criteria in LAC 33:IX.2385 for minor modifications, the permit may be modified without a draft permit or public review. Otherwise, a draft permit must be prepared and other procedures in LAC 33:IX.Chapter 23.Subchapters E and F followed.

1. Causes for Modification. The following are causes for modification but not revocation and reissuance of permits except when the permittee requests or agrees.

a. Alterations. There are material and substantial alterations or additions to the permitted facility or activity (including a change or changes in the permittee's sludge use or disposal practice) that occurred after permit issuance that justify the application of permit conditions that are different or absent in the existing permit.

NOTE: Certain reconstruction activities may cause the new source provisions of 40 CFR 122.29 to be applicable.

b. Information. The state administrative authority has received new information. Permits may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance. For LPDES general permits (LAC 33:IX.2345) this cause includes any information indicating that cumulative effects on the environment are unacceptable. For new source or new discharger LPDES permits (LAC 33:IX.2331, 40 CFR 122.29), this cause shall include any significant information derived from effluent testing required under LAC 33:IX.2331.K.5.f or H.4.c after issuance of the permit.

c. New Regulations. The standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued. Permits may be modified during their terms for this cause only as follows:

i. for promulgation of amended standards or regulations, when:

(a) the permit condition requested to be modified was based on a promulgated effluent limitation guideline, EPA approved or promulgated water quality standards, or the secondary treatment regulations under LAC 33:IX.Chapter 23.Subchapter S; and

(b) EPA has revised, withdrawn, or modified that portion of the regulation or effluent limitation guideline on which the permit condition was based, or has approved a state action with regard to a water quality standard on which the permit condition was based; and

(c) a permittee requests modification in accordance with LAC 33:IX.2407 within 90 days after *Federal Register* notice of the action on which the request is based;

ii. for judicial decisions, a court of competent jurisdiction has remanded and stayed EPA promulgated regulations or effluent limitation guidelines, if the remand and stay concern that portion of the regulations or guidelines on which the permit condition was based and a request is filed by the permittee in accordance with LAC 33:IX.2407 within 90 days of judicial remand;

iii. for changes based upon modified state certifications of NPDES permits, see 40 CFR 124.55(b).

d. Compliance Schedules. The state administrative authority determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which the permittee has little or no control and for which there is no reasonably available remedy. However, in no case may an LPDES compliance schedule be modified to extend beyond an applicable CWA statutory deadline. See also LAC 33:IX.2385 (minor modifications) and Subparagraph A.1.n of this Section (LPDES innovative technology).

e. When the permittee has filed a request for a variance under CWA Section 301(c), 301(g), 301(h), 301(i), 301(k), or 316(a) or for fundamentally different factors within the time specified in LAC 33:IX.2331 or 40 CFR 125.72(a).

f. 307(a) Toxics. When required to incorporate an applicable CWA section 307(a) toxic effluent standard or prohibition (see LAC 33:IX.2361.B).

g. Reopener. When required by the reopener conditions in a permit, which are established in the permit under LAC 33:IX.2361.C (for CWA toxic effluent limitations and standards for sewage sludge use or disposal, see also LAC 33:IX.2361.B) or 2719.E (pretreatment program).

h.i. Net Limits. Upon request of a permittee who qualifies for effluent limitations on a net basis under LAC 33:IX.2363.G.

ii. When a discharger is no longer eligible for net limitations, as provided in LAC 33:IX.2363.G.1.b.

i. Pretreatment. As necessary under LAC 33:IX.2715.E (compliance schedule for development of pretreatment program).

j. Failure to Notify. Upon failure of an approved state to notify, as required by the CWA Section 402(b)(3), another state whose waters may be affected by a discharge from the approved state.

k. Non-Limited Pollutants. When the level of discharge of any pollutant that is not limited in the permit exceeds the level that can be achieved by the technology-based treatment requirements appropriate to the permittee under LAC 33:IX.2469.C.

l. Notification Levels. To establish a notification level as provided in LAC 33:IX.2361.F.

m. Compliance Schedules. To modify a schedule of compliance to reflect the time lost during construction of an innovative or alternative facility, in the case of a POTW that has received a grant under Section 202(a)(3) of the CWA for 100 percent of the costs to modify or replace facilities constructed with a grant for innovative and alternative wastewater technology under Section 202(a)(2) of the CWA. In no case shall the compliance schedule be modified to extend beyond an applicable CWA statutory deadline for compliance.

n. For a small MS4, to include an effluent limitation requiring implementation of a minimum control measure or measures as specified in LAC 33:IX.2349.B when:

i. the permit does not include such measure(s) based upon the determination that another entity was responsible for implementation of the requirement(s); and

ii. the other entity fails to implement measure(s) that satisfy the requirement(s).

o. To correct technical mistakes, such as errors in calculation, or mistaken interpretations of law made in determining permit conditions.

p. When the discharger has installed the treatment technology considered by the permit writer in setting effluent limitations imposed under Section 402(a)(1) of the CWA and has properly operated and maintained the facilities but nevertheless has been unable to achieve those effluent limitations. In this case, the limitations in the modified permit may reflect the level of pollutant control actually achieved (but shall not be less stringent than required by a subsequently promulgated effluent limitations guideline).

q. Reserved

r. Land Application Plans. When required by a permit condition to incorporate a land application plan for beneficial reuse of sewage sludge, to revise an existing land application plan, or to add a land application plan.

2. Causes for Modification or Revocation and Reissuance. The following are causes to modify or, alternatively, revoke and reissue a permit:

a. cause exists for termination under LAC 33:IX.2387 or 2769, and the state administrative authority determines that modification or revocation and reissuance is appropriate;

b. the state administrative authority has received notification (as required in the permit, see LAC 33:IX.2355.L.3) of a proposed transfer of the permit. A permit also may be modified to reflect a transfer after the effective date of an automatic transfer (LAC 33:IX.2381.B) but will not be revoked and reissued after the effective date of the transfer except upon the request of the new permittee.

3. Upon modification or revocation and reissuance of a permit for a privately-owned sewage treatment facility regulated by the Public Service Commission, the permittee shall comply with the financial security requirements in LAC 33:IX.Chapter 23.Subchapter W, unless a waiver or exemption has been granted under R.S. 30:2075.2.A.(6).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:724 (June 1997), LR 23:1524 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2283 (October 2000), LR 27:45 (January 2001), LR 28:470 (March 2002).

§2387. Termination of Permits

[See Prior Text in A - A.5]

B. The state administrative authority shall follow the applicable procedures in 40 CFR Part 124 or state procedures in terminating any LPDES permit under this Section, except that if the entire discharge is permanently terminated by elimination of the flow or by connection to a POTW (but not by land application or disposal into a well), the state administrative authority may terminate the permit by notice to the permittee. Termination by notice shall be effective 30 days after notice is sent, unless the permittee objects within that time. If the permittee objects during that period, the state administrative authority shall follow 40 CFR Part 124 or applicable state procedures for termination. Expedited permit termination procedures are not available to permittees that are subject to pending state and/or federal enforcement actions, including citizen suits brought under state or federal law. If requesting expedited permit termination procedures, a permittee must certify that it is not subject to any pending state or federal enforcement actions, including citizen suits brought under state or federal law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:725 (June 1997), amended by the Office of the Secretary, LR 25:662 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:472000 (March 2002).

Subchapter E. General Program Requirements

§2403. Definitions

A. In addition to the definitions given in LAC 33:IX.2313 and 40 CFR 123.2 (LPDES) and 501.2

(sludge management), the definitions below apply to LAC 33:IX.Chapter 23.Subchapters E-G

Administrator—the administrator of the U.S. Environmental Protection Agency, or an authorized representative.

Application—the standard forms for applying for a permit, including any additions, revisions, or modifications to the forms or forms approved by EPA for use in approved states, including any approved modifications or revisions.

Appropriate Act and Regulations—the Clean Water Act (CWA) and applicable regulations promulgated under those statutes. In the case of an approved state program, appropriate Act and regulations includes program requirements.

CWA—the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act of Federal Pollution Control Act Amendments of 1972) Pub. L. 92-500, as amended by Pub. L. 95-217 and Pub. L. 95-576; 33 U.S.C. 1251 et seq.

[See Prior Text]

State Administrative Authority—the chief administrative officer of any state, interstate, or tribal agency operating an approved program, or the delegated representative of the state administrative authority.

[See Prior Text in B]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:472 (March 2002).

§2407. Modification, Revocation and Reissuance, or Termination of Permits

[See Prior Text in A - B.3]

C.1. If the state administrative authority tentatively decides to terminate a permit under LAC 33:IX.2387.A or 2769 (for EPA-issued NPDES permits, only at the request of the permittee) or a permit under LAC 33:IX.2387.B (where the permittee objects), he or she shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit that follows the same procedures as any draft permit prepared under LAC 33:IX.2409.

2. In the case of EPA-issued permits, a notice of intent to terminate or a complaint shall not be issued if the regional administrator and the permittee agree to termination in the course of transferring permit responsibility to an approved state under 40 CFR 123.24(b)(1) (NPDES) or 40 CFR 501.14(b)(1) (sludge). In addition, termination of an NPDES permit for cause in accordance with LAC 33:IX.2387.B may be accomplished by providing written notice to the permittee, unless the permittee objects.

[See Prior Text in D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:725 (June 1997), LR 23:1524 (November 1997), amended by the Office of the Secretary, LR

25:662 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:472 (March 2002).

§2415. Public Notice of Permit Actions and Public Comment Period

[See Prior Text in A - D.1.f]

g. for LPDES permits only (including those for sludge-only facilities), a general description of the location of each existing or proposed discharge point, the name of the receiving water, the sludge use and disposal practice(s), the location of each sludge treatment works treating domestic sewage, and use or disposal sites known at the time of permit application. For EPA-issued NPDES permits only, if the discharge is from a new source, a statement as to whether an environmental impact statement will be or has been prepared;

[See Prior Text in D.1.h - F]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:725 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2554 (November 2000), LR 28:473 (March 2002).

§2423. Reopening of the Public Comment Period

[See Prior Text in A.1 - C]

D. Public notice of any of the above actions shall be issued under LAC 33:IX.2415.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:473 (March 2002).

§2425. Issuance and Effective Date of Permit

A. After the close of the public comment period under LAC 33:IX.2415 on a draft permit, the state administrative authority shall issue a final permit decision. The state administrative authority shall notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. This notice shall include reference to the procedures for appealing a decision on an LPDES permit. For the purposes of this Section a final permit decision means a final decision to issue, deny, modify, or revoke and reissue, or terminate a permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:473 (March 2002).

Subchapter F. Specific Decisionmaking Procedures Applicable to LPDES Permits

§2445. Fact Sheets

A. In addition to meeting the requirements of LAC 33:IX.2413, LPDES fact sheets shall contain:

1. any calculations or other necessary explanation of the derivation of specific effluent limitations and conditions

or standards for sewage sludge use or disposal, including a citation to the applicable effluent limitation guideline, performance standard, or standard for sewage sludge use or disposal as required by LAC 33:IX.2317 and reasons why they are applicable or an explanation of how the alternate effluent limitations were developed;

2.a. when the draft permit contains any of the following conditions, an explanation of the reasons why such conditions are applicable:

i. limitations to control toxic pollutants under LAC 33:IX.2361.E;

ii. limitations on internal waste streams under LAC 33:IX.2363.I;

iii. limitations on indicator pollutants under LAC 33:IX.2469.G;

iv. limitations set on a case-by-case basis under LAC 33:IX.2469.C.2 or 3, or in accordance with Section 405(d)(4) of the CWA;

v. limitations to meet the criteria for permit issuance under LAC 33:IX.2317.A.9; or

vi. waivers from monitoring requirements granted under LAC 33:IX.2361.A;

b. for every permit to be issued to a treatment works owned by a person other than a state or municipality, an explanation of the state administrative authority's decision on regulation of users under LAC 33:IX.2361.M;

3. when appropriate, a sketch or detailed description of the location of the discharge or regulated activity described in the application;

4. for EPA-issued NPDES permits, the requirements of any state certification under 40 CFR 124.53; and

5. for permits that include a sewage sludge land application plan under 40 CFR 501.15(a)(2)(ix), a brief description of how each of the required elements of the land application plan are addressed in the permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:473 (March 2002).

Subchapter K. Criteria and Standards for Determining Fundamentally Different Factors under Sections 301(b)(1)(A), 301(b)(2)(A), and (E) of the Act

§2505. Method of Application

A. Written request for a variance under this Subchapter shall be submitted in duplicate to the state administrative authority in accordance with LAC 33:IX.2331.L.1 and LAC 33:IX.2405.

[See Prior Text in B - B.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:473 (March 2002).

Subchapter P. Criteria and Standards for Best Management Practices Authorized under Section 304(e) of the Act Reserved

§2560. Effective Date

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 23:199 (February 1997), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 28:474 (March 2002).

§2561. Purpose and Scope

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 28:474 (March 2002).

§2563. Definition

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 28:474 (March 2002).

§2565. Applicability of Best Management Practices

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 28:474 (March 2002).

§2567. Permit Terms and Conditions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 28:474 (March 2002).

§2569. Best Management Practices Programs

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:725 (June 1997), repealed by the Office of Environmental Assessment, Environmental Planning Division, LR 28:474 (March 2002).

Subchapter T. General Pretreatment Regulations for Existing and New Sources of Pollution

§2705. Definitions

A. For purposes of this Subchapter, except as discussed below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this regulation.

* * *

[See Prior Text]

Pretreatment Requirements Cany substantive or procedural requirement related to pretreatment, other than a national pretreatment standard, imposed on an industrial user.

Significant Industrial User

* * *

[See Prior Text in A. Significant Industrial User.a - Editorial Note]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:474 (March 2002).

§2733. Bypass

A. Definitions

Severe Property Damage Csubstantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

* * *

[See Prior Text in B - D.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.(3) and B.(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:474 (March 2002).

James H. Brent, Ph.D.
Assistant Secretary

0203#056

RULE

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

UST Registration Requirements
(LAC 33:XI.301 and 303)(UT009)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Underground Storage Tanks regulations, LAC 33:XI.301 and 303 (Log #UT009).

The Rule revises the current regulations to require all owners of new underground storage tanks (UST) systems to register such tanks on the Underground Storage Tanks Registration Form (UST-REG-01) at least 30 days prior to bringing such tanks into use. The certification of installation form, UST Registration of Technical Requirements (UST-REG-02), will no longer be required to be submitted at the same time as the registration form. The Rule requires that this form be submitted within 60 days after the introduction of a regulated substance. (Note that the form names have

changed.) This Rule amends the Underground Storage Tanks Regulations to correct the existing problem with registration of new UST systems. The current regulations prohibit the placing of a regulated substance into an unregistered UST. The regulations currently require that in order to register a new UST, both the Registration of Underground Storage Tanks (UST-REG-01) form and the Registration of Technical Requirements for USTs (UST-REG-02) form be submitted within 30 days of bringing the tanks into use. This has caused a problem since the Registration of Technical Requirements for USTs form cannot be completed until a tank tightness test has been performed, which requires that the tank be filled with fuel. Therefore, the Regulations are being revised to allow registration of a UST by completing the UST-REG-01 form 30 days before bringing a UST into use. This would be followed by submission of the UST-REG-02 form 60 days after fuel has been dropped in the UST and the tank can be certified as tight. The basis and rationale for this Rule are to allow fuel to be dropped into a UST for the purpose of tank tightness testing without violating the UST regulations.

This Rule meets an exception listed in R.S. 30:2019.D.(2) and R.S. 49:953.G.(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part XI. Underground Storage Tanks

Chapter 3. Registration Requirements, Standards, and Fee Schedule

§301. Registration Requirements

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

B. New UST Systems. Upon the effective date of these regulations, all owners of new UST systems (as defined in LAC 33:XI.103) must, at least 30 days before bringing such tanks into use, register them on an *Underground Storage Tank Registration Form* (UST-REG-01). Registration forms shall be filed with the Office of Environmental Services, Permits Division. The following registration requirements apply to new UST systems:

[See Prior Text in B.1 - C.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2194.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:727 (July 1992), LR 20:294 (March 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2558 (November 2000), LR 28:475 (March 2002).

§303. Standards for UST Systems

[See Prior Text in A. - A.4.b.i.(e)]

ii. Beginning January 20, 1992, all owners and operators must ensure that the individual exercising supervisory control over installation critical junctures (as defined in LAC 33:XI.1303) of an UST system is certified in accordance with LAC 33:XI.Chapter 13. To demonstrate compliance with Subparagraph A.4.a of this Section, all owners and operators must provide a certification of

compliance on the *UST Registration of Technical Requirements Form* (UST-REG-02) within 60 days of the introduction of any regulated substance. Forms shall be filed with the Office of Environmental Services, Permits Division.

[See Prior Text in A.4.c - B.5.b]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2194.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:728 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2558 (November 2000), LR 28:475 (March 2002).

James H. Brent, Ph.D.
Assistant Secretary

0203#062

RULE

**Office of the Governor
Commission on Law Enforcement and
Administration of Criminal Justice**

Certification Requirements for Basic Correctional Officers
(LAC 22:III.4703)

In accordance with the provision of R.S. 40:2401 et seq., the Peace Officer Standards and Training Act, and R.S. 49:950 et seq., the Administrative Procedure Act, the Commission on Law Enforcement and Administration of Criminal Justice has amended rules and regulations relative to the training of peace officers.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE AND
LAW ENFORCEMENT**

**Part III. Commission on Law Enforcement and
Administration of Criminal Justice**

Subpart 4. Peace Officers

Chapter 47. Standards and Training

§4703. Basic Certification

A. All full-time peace officers, as defined in R.S. 40:2402, shall complete a basic training course as prescribed and certified by the Council on Peace Officers Standards and Training (POST Council). Reserve or part-time officers or military police officers stationed in Louisiana may be eligible for certification if they successfully complete a basic training course prescribed for full-time peace officers and pass the POST statewide examination. There are three levels of POST certification.

1. ...

2. Level 2 Certification for Basic Correctional Peace Officer

a. The student will complete a training course with a minimum of 218 hours and is limited to those peace officers whose duties are the care, custody, and control of inmates. The training course consists of the ACA core curriculum plus a sufficient number of hours to obtain POST certification. POST Firearm certification for Level 2 students is required (Effective March 26, 2001).

b. Correctional peace officers with Level 2 certification must meet the POST firearms requirements for annual requalification as outlined in §4721.B and §4721.C.

A.3. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:663 (April 1999), LR 27:49 (January 2001), LR 28:475 (March 2002).

Michael A. Ranatza
Executive Director

0203#059

RULE

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

**EPO Plan of Benefits C Claims Filing Deadline
(LAC 32:V.405)**

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801.C and 802.B.(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the EPO Plan Document relative to the deadline for filing claims. The reason for this action is to provide a uniform, 12-month deadline from the date of service for filing claims.

Accordingly, OGB has amended the following Rule to become effective July 1, 2002.

Title 32

EMPLOYEE BENEFITS

Part V. Exclusive Provider (EPO) Plan of Benefits

Chapter 4. Uniform Provisions

§405. When Claims Must be Filed

A. A claim for benefits must be received by the program within one year from the date on which the medical expenses were incurred.

B. The receipt date for electronically filed claims is the date on which the program receives the claim, not the date on which the claims is submitted to a clearinghouse or to the providers practice management system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1816 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:476 (March 2002).

A. Kip Wall
Chief Executive Officer

0203#076

RULE

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

**EPO Plan of Benefits C Deductible, Services not Otherwise
Subject to Co-Payment (LAC 32:V.701)**

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801.C and 802.B.(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the EPO Plan Document to implement a deductible for services other than physician office visits. The reason for this action is to avoid adverse financial impact that would affect fiscal solvency of OGB and the availability of services necessary to maintain the health and welfare of the covered employees and their dependents, which is crucial to the delivery of vital services to the citizens of the state.

Because this Rule implements a calendar year deductible, effective July 1, the deductible for the period July 1 - December 31, 2002 will be one-half the calendar year deductible amount.

Accordingly, OGB has amended the following Rule, effective July 1, 2002.

Title 32

EMPLOYEE BENEFITS

Part V. Exclusive Provider (EPO) Plan of Benefits

Chapter 7. Schedule of Benefits C EPO

§701 Comprehensive Medical Benefits

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

	PPO/Non Participating Provider	EPO
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Lifetime Maximum for all Benefits except Outpatient Prescription Drug Benefits per person ...		
Lifetime Maximum for all Outpatient Prescription Drug Benefits per person ...		

1. Deductibles:

Inpatient deductible per day, maximum of 5 days per Admission (waived for admissions at PPO hospitals) ...		
Emergency room charges for each visit unless the Covered Person is hospitalized immediately following emergency room treatment (prior to and in addition to Calendar Year deductible) ...		
Professional and other eligible expenses, Employees and Dependents of Employees, per person, per Calendar Year ...		

Family Unit maximum (3 individual deductibles)
Professional and other eligible expenses, Retirees and Dependents of Retirees, per person, per Calendar Year ...

Family Unit maximum (3 individual deductibles)

Professional and other eligible expenses, not otherwise subject to co-payment, per person, per Calendar Year \$300
Family Unit maximum (3 individual deductibles)

A.2. - G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1823 (October 1999), LR 26:487 (March 2000), LR 27:717, 719 (May 2001), LR 27:1886 amended by the Office of the Governor, Division of Administration, Office of Group Benefits, (November 2001), LR 28:476 (March 2002).

A. Kip Wall
Chief Executive Officer

0203#078

RULE

Office of the Governor Division of Administration Office of Group Benefits

EPO Plan of Benefits C Legal Limitations, Administrative Claims Review (LAC 32:V.409 and Chapter 5)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801.C and 802.B.(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the EPO Plan Document relative to review of initial claims determinations and the time for initiating legal action against OGB. The reason for this action is to modify claims review procedures in light of statutory changes effected by Act 1178 of 2001.

Accordingly, OGB has amended the following Rule to become effective upon promulgation:

Title 32

EMPLOYEE BENEFITS

Part V. Exclusive Provider (EPO) Plan of Benefits

Chapter 4. Uniform Provisions

§409. Legal Limitations

A. A Plan Member must exhaust the Administrative Claims Review procedure before filing a suit for benefits. No action shall be brought to recover benefits under this plan more than one year after the time a claim is required to be filed or more than 30 days after mailing of the notice of

decision of the Administrative Claims Committee, whichever is later.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, IR 25:1816 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:477 (March 2002).

Chapter 5. Administrative Claims Review

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

§501. Administrative Claims Review

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1816 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:477 (March 2002).

§503. Review and Appeal Prerequisite to Legal Action

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1816 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:477 (March 2002).

§505. Administrative Claims Committee

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1816 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:477 (March 2002).

§507. Administrative Claims Review Procedure and Decisions

A. Review by the Committee shall be based upon a documentary record which includes:

1. all information in the possession of the Program relevant to the issue presented for review;

2. all information submitted by the Covered Person in connection with the request for review; and

3. any and all other information obtained by the Committee in the course of its review.

B. Upon completion of the review the Committee will render its decision which will be based on the Plan Document and the information included in the record. The decision will contain a statement of reasons for the decision. A copy of the decision will be mailed to the Covered Person and any representative thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1816 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:477 (March 2002).

§509. Procedure for Hearing Appeals

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1818 (October 1999), repealed by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:478 (March 2002).

§511. Subpoena of Witness; Production of Documents

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1818 (October 1999), repealed by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:478 (March 2002).

§513. Appeals Decisions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1818 (October 1999), repealed by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:478 (March 2002).

§515. Rehearing

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1818 (October 1999), repealed by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:478 (March 2002).

§517. Judicial Review

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1818 (October 1999), repealed by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:478 (March 2002).

A. Kip Wall
Chief Executive Officer

0203#074

RULE

Office of the Governor Division of Administration Office of Group Benefits

EPO Plan of Benefits CSleep Studies (LAC 32:V.301)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801.C and 802.B.(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the EPO Plan Document relative to sleep studies. The reason for this action is to enhance member access to accredited facilities for sleep studies.

Accordingly, OGB has amended the following Rule, effective upon promulgation.

Title 32

EMPLOYEE BENEFITS

Part V. Exclusive Provider (EPO) Plan of Benefits

Chapter 3. Medical Benefits

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

A.1. - 30. ...

31.a. testing of sleep disorders only when the tests are performed at either:

i. a sleep study facility accredited by the American Sleep Disorders Association or the Joint Commission on Accreditation of Healthcare Organizations (JCAHO); or

ii. a sleep study facility located within a healthcare facility accredited by JCAHO.

b. No benefits are payable for surgical treatment of sleep disorders (including LAUP) except following demonstrated failure of non-surgical treatment and upon approval by the program.

32. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1810 (October 1999), amended by the Office of the Governor, Division of Administrator, Office of Group Benefits, LR 28:478 (March 2002).

A. Kip Wall
Chief Executive Officer

0203#077

RULE

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

**PPO Plan of Benefits CClaims Filing Deadline
(LAC 32:III.405)**

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801.C and 802.B.(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO Plan Document relative to the deadline for filing claims. The reason for this action is to provide a uniform, 12-month deadline from the date of service for filing claims.

Accordingly, OGB has amended the following Rule, effective July 1, 2002.

**Title 32
EMPLOYEE BENEFITS**

**Part III. Preferred Provider (PPO) Plan of Benefits
Chapter 4. Uniform Provisions**

§405. When Claims Must be Filed

A. A claim for benefits must be received by the program within one year from the date on which the medical expenses were incurred.

B. The receipt date for electronically filed claims is the date on which the program receives the claim, not the date on which the claims is submitted to a clearinghouse or to the providers practice management system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1836 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:479 (March 2002).

A. Kip Wall
Chief Executive Officer

0203#073

RULE

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

**PPO Plan of Benefits CLegal Limitations,
Administrative Claims Review
(LAC 32:III.409, 501, 503, 505, 507; and 509-517)**

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801.C and 802.B.(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits

authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO Plan Document relative to review of initial claims determinations and the time for initiating legal action against OGB. The reason for this action is to modify claims review procedures in light of statutory changes effected by Act 1178 of 2001.

Accordingly, OGB has amended the following Rule, effective upon promulgation.

**Title 32
EMPLOYEE BENEFITS**

**Part III. Exclusive Provider (PPO) Plan of Benefits
Chapter 4. Uniform Provisions**

§409. Legal Limitations

A. A Plan Member must exhaust the Administrative Claims Review procedure before filing a suit for benefits. No action shall be brought to recover benefits under this plan more than one year after the time a claim is required to be filed or more than thirty days after mailing of the notice of decision of the Administrative Claims Committee, whichever is later.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1836 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:479 (March 2002).

Chapter 5. Administrative Claims Review

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

§501. Administrative Claims Review

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1838 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:479 (March 2002).

§503. Review and Appeal Prerequisite to Legal Action

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

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

Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:479 (March 2002).

§505. Administrative Claims Committee

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1838 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:480 (March 2002).

§507. Administrative Claims Review Procedure and Decisions

A. Review by the Committee shall be based upon a documentary record which includes:

1. all information in the possession of the Program relevant to the issue presented for review;
2. all information submitted by the Covered Person in connection with the request for review; and
3. any and all other information obtained by the Committee in the course of its review.

B. Upon completion of the review the Committee will render its decision which will be based on the Plan Document and the information included in the record. The decision will contain a statement of reasons for the decision. A copy of the decision will be mailed to the Covered Person and any representative thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1838 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:480 (March 2002).

§509. Procedure for Hearing Appeals

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1838 (October 1999), repealed by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:480 (March 2002).

§511. Subpoena of Witnesses; Production of Documents

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1838 (October 1999), repealed by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:480 (March 2002).

§513. Appeals Decisions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1838 (October 1999), repealed by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:480 (March 2002).

§515. Rehearing

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1838 (October 1999), repealed by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:480 (March 2002).

§517. Judicial Review

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1838 (October 1999), repealed by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:480 (March 2002).

A. Kip Wall
Chief Executive Officer

0203#072

RULE

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

PPO Plan of Benefits CSleep Studies (LAC 32:III.301)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801.C and 802.B.(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO Plan Document relative to sleep studies. The reason for this action is to enhance member access to accredited facilities for sleep studies.

Accordingly, OGB has amended the following Rule, effective upon promulgation.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 3. Medical Benefits

§301. Medical Benefits Apply When Eligible Expenses are Incurred by a Covered Person

A.1. - 30. ...

31.a. testing of sleep disorders only when the tests are performed at either:

i. a sleep study facility accredited by the American Sleep Disorders Association or the Joint Commission on Accreditation of Healthcare Organizations (JCAHO); or

ii. a sleep study facility located within a healthcare facility accredited by JCAHO.

b. No benefits are payable for surgical treatment of sleep disorders (including LAUP) except following

demonstrated failure of non-surgical treatment and upon approval by the program.

32. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801.C and 802.B.(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1830 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:480 (March 2002).

A. Kip Wall
Chief Executive Officer

0203#075

RULE

**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, has amended 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 calendar days after receipt of these items. In instances when equipment must be installed and/or tested before acceptance by the agency, the calendar days will begin upon official acceptance by the agency.

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 28:481 (March 2002).

Irene C. Babin
Director

0203#053

RULE

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

Banks (LAC 10:III.701-703)

Under the authority of the Louisiana Banking Law, R.S. 6:1, et seq., and in accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Commissioner has amended the following Rule providing for Directors' Examination Requirements.

Title 10

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

Part III. Banks

Chapter 7. Directors' Examination Requirements

§701. General Provisions

A. Introduction. R.S. 6:290, 6:793, and 6:1310, amended by Act Number 530 of the 2001 Legislative Session, requires at least once in each year every state bank, savings bank, and savings and loan association (each hereafter referred to as "institution") to cause its books, records, and accounts to be examined in accordance with a Regulation promulgated by the Commissioner of the Office of Financial Institutions. This examination is called the annual directors' examination and constitutes the institution's annual external audit program. The annual external audit program must be conducted in accordance with the requirements prescribed in this Rule.

B. Board of Directors Responsibilities. The board of directors of an institution is responsible for determining how to best obtain reasonable assurance that the institution's financial statements and regulatory reports are prepared in accordance with appropriate accounting and regulatory standards. In this regard, the board is also responsible for ensuring that its annual external auditing program is appropriate based on the size and complexity of the institution and includes an evaluation of all significant risk. To help ensure the adequacy of internal controls and accuracy of financial reporting, the board of directors is required to establish and elect an audit committee of not less than three members, a majority of which should be outside directors.

C. Audit Committee Responsibilities. The audit committee shall secure and oversee the annual external audit program required by this Rule. The committee shall require that a written report be presented to the board of directors and documented in the board minutes.

D. Scope. This Rule does not apply to all institutions regulated by the Office of Financial Institutions.

1. Institutions not subject to this Rule include the following.

a. Those institutions with total assets of \$500 million or more. These institutions must comply with federal banking law annual external audit requirements, which are

more stringent than the annual external audit options provided in this Rule.

b. Those institutions that have been insured by the Federal Deposit Insurance Corporation (FDIC) for a period of less than four years. These institutions are required to obtain annual financial audits performed by an independent public accountant.

c. Those institutions that are under some type of enforcement action that requires an annual external audit program more stringent than the policy statement options.

2. Institutions subject to this Rule include the following (must meet all three criteria):

a. those institutions with less than \$500 million in total assets at the beginning of their fiscal year; and

b. which have been insured by the Federal Deposit Insurance Corporation (FDIC) for more than three years; and

c. which are under no contractual or enforcement actions that would require an annual external audit program more stringent than the options contained in Subsection E of this Rule.

E. Acceptable Types of Annual External Audit Programs. The types of annual external audit programs included in the Federal Regulatory Agencies' Interagency Policy Statement on External Auditing Programs of Banks and Savings Associations (Policy Statement) will meet the requirements of this Rule. The Policy Statement provides for the following four types of annual external audit programs:

1. a financial statement audit performed by an independent public accountant;

2. a balance sheet audit performed by an independent public accountant;

3. a report by an independent public accountant on an institution's internal control structure over financial reporting;

4. an agreed-upon procedures or state-required examination report.

F. Auditor Qualifications

1. If an institution's audit committee secures any of the types of annual external audit programs listed in Paragraphs E.1-3, the annual external audit program, as well as reports issued, must be performed by independent public accountants that have experience with financial institution accounting and auditing or similar expertise, are knowledgeable about relevant laws and regulations, and comply with the accounting, auditing, and other professional standards referred to in the Policy Statement.

2. If an audit committee selects the type of annual external audit program listed in Paragraph E.4, the annual external audit program, as well as reports issued, must be performed by either independent public accountants or qualified independent auditors. These individuals must have experience with financial institution accounting and auditing or similar expertise, are knowledgeable about relevant laws and regulations, and comply with the accounting, auditing, and other professional standards established for the professional designations they hold.

G Annual Reporting Period. The annual external audit program shall cover a maximum of a 12-month period of operations. Each subsequent annual report shall have the same ending period as the prior year report for comparison purposes, unless the institution obtains prior written permission from the commissioner to change its reporting

date. The preferable time to schedule the performance of an annual external audit program is as of an institution's fiscal year-end. However, a quarter-end that coincides with a regulatory report date provides similar benefits. Therefore, an institution may choose either alternative as an acceptable reporting period for the annual external audit program, provided that same reporting date is used for future filings.

H. Due Date and Reporting Requirements. Within 120 days after the end of its fiscal year or quarter-end date that coincides with a regulatory report date for which the institution chooses as its annual reporting date, unless the institution obtains prior written permission from the commissioner to extend this date, each institution shall file with the commissioner two copies of the following:

1. the report, including all opinions and footnotes, if applicable, presented in connection with the type of annual external audit program selected by the audit committee and presented to the board of directors;

2. any management letters issued by the individual or firm that conducted the annual external audit services; and

3. management's response to any management letters issued.

I. Holding Company Subsidiaries. If an institution is owned by another entity such as a holding company and the group's consolidated financial statements for the same period are audited, the subsidiary institution is not required to obtain a separate audit of its financial statements provided the audit scope includes substantive testing of the subsidiary's financial records and activities. If the auditing firm considers the subsidiary institution's activities to be immaterial to the financial statements of the consolidated entity, the audit committee of the subsidiary institution shall obtain additional audit coverage that meets one of the four alternative annual external audit programs listed in Subsection E.

J. Due Date and Reporting Requirements for Consolidated Financial Statements. If an institution is included in an audited consolidated financial statement and the audit scope for the consolidated statement meets the requirements of Subsection I, within 120 days after the end of its fiscal year or period for which the consolidated financial statements are presented, unless the institution obtains prior written permission from the commissioner to extend this date, the institution shall submit two copies of the following:

1. the consolidated audited financial statements, which shall include the accountant's report, financial statements, and all footnotes;

2. consolidating worksheets for the balance sheet and statement of income that separately break out all entities within the consolidation on a separate basis;

3. any management letters issued by the individual or firm that conducted the annual external audit services; and

4. management's response to any management letters issued.

K. Multiple Institutions Included in a Consolidated Audited Financial Statement. If more than one institution is included in a consolidated audited financial statement, only two copies of the information listed in Subsection J should be submitted, with a cover letter identifying all institutions covered by the reports submitted. This information must be submitted to the commissioner of financial institutions

within 120 days after the end of the fiscal year or period for which the consolidated financial statements are presented, unless the institution obtains prior written permission from the commissioner to extend this date.

L. Requirements for a Written Engagement Letter. The audit committee shall obtain a written engagement letter from an independent accountant or individual performing services, before such services are performed. The engagement letter shall include a description of all services to be performed, as well as any additional contractual conditions agreed to between the institution and the provider of the services.

M. Access to Examination Workpapers

1. Management shall provide the independent public accountant or other individuals that perform the annual external audit program access to all examination reports and written communication between the institution and the federal agencies or state bank commissioner since the last annual external auditing activity.

2. All independent public accountants and independent internal auditors that perform any of the types of annual external audit programs listed in Subsection E shall agree in the engagement letter to grant all authorized state and federal examiners access to all workpapers and other materials pertaining to the institution prepared in the course of performing the annual external audit program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:290, 6:793 and 6:1310.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 16:17 (January 1990), repealed and repromulgated by the Office of the Governor, Office of Financial Institutions, LR 28:481 (March 2002).

§702. Definitions

Agreed-Upon Procedures/State Required Examination Report Cthe fourth type of annual external audit program allowable under the Federal Regulatory Agencies' Interagency Policy Statement on External Auditing Programs of Banks and Savings Associations. If an audit committee chooses this type of annual external audit program, the audit program must be performed in compliance with a policy statement issued by the commissioner.

Annual Directors' Examination Can annual examination of an institution's books, records, and accounts that must be:

1. the responsibility of and performed under the direction of the audit committee of the board of directors;
2. one of the types of audit programs permitted in this Rule;
3. performed by individuals that meet the requirements stated in this Rule;
4. summarized in a written report that is presented to the board of directors; and
5. submitted to the commissioner of the office of financial institutions and the FDIC, along with copies of management letters and management's response, within the time frames established in this Rule.

Federal Regulatory Agencies CThe Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), and the Office of Thrift Supervision (OTS). These agencies cooperatively issue interagency policy statements.

Immediate Family Members Can individual's spouse, minor children and any children, including adult children, residing in the individual's home.

Independent Internal Auditor Ca qualified internal auditor that is, in fact, independent as defined in the Standards for the Professional Practice of Internal Auditing by the Institute of Internal Auditors and/or the Statements of Principle and Standards for Internal Auditing in the Banking Industry by the Bank Administration Institute.

1. An internal auditor will not be considered independent if, for example:

a. he/she is employed by or accountable to anyone other than the board of directors of the institution or holding company, if applicable;

b. his/her performance is evaluated by, and salary and annual bonus are set by anyone other than the board of directors of the institution, or holding company if applicable;

c. his/her duties consist of non-audit responsibilities within the institution or holding company;

d. he/she has any proprietary interest in any partnership, firm or corporation which controls the institution, directly or indirectly, except that he or she may own and/or have a beneficial interest (including any shares of a retirement and/or incentive plan) of up to a maximum of 1 percent of the total outstanding shares of the institution or holding company which employs the internal auditor;

e. he/she has any loan (including any overdrafts, cash items, unposted items, drawing against uncollected funds, or any other such items) to or from the institution or holding company or any officer, director, or principal stockholder thereof. This latter prescription does not apply to the following loans from a financial institution, if they are free from classification by bank regulatory authorities, and made under normal lending procedures, terms and requirements:

i. automobile loans and leases collateralized by the automobile;

ii. loans secured by the surrender value of an insurance policy;

iii. loans fully collateralized by cash deposits at the same institution;

iv. credit cards and cash advances on checking accounts with an aggregate unpaid balance of \$5,000 or less, provided that these are obtained from a financial institution under its normal lending procedures, terms, and requirements and are at all times kept current as to all terms;

f. he/she is a member of the immediate family of an officer, director, attorney, or employee of the institution or holding company.

2. The aforementioned examples are not to be construed as all-inclusive criteria in judging the independence of an internal auditor, as other conditions may also contribute to the lack of independence. It is the responsibility of the board of directors to determine if there are any unusual relationships or affiliations, which the internal auditor may have with the institution and to have any questions as to his or her independence resolved before he or she proceeds with the examination. Any unusual relationships shall be disclosed to the Commissioner of the Office of Financial Institutions.

Independent Public Accountant Can accountant who is independent of the institution and registered or licensed to practice, and holds himself or herself out as a public accountant, and who is in good standing under the laws of the state or political subdivision of the United States in which the home office of the institution is located. The independent public accountant must comply with the American Institute of Certified Public Accountants' (AICPA) Code of Professional Conduct and any related guidance adopted by the Independence Standards Board and the agencies. No certified public accountant or public accountant will be recognized as independent if he/she is not independent both in fact and in appearance.

Outside Director Cmembers of an institution's board of directors who:

1. are not officers, employees, or principal stockholders (as defined below) of the institution, its subsidiaries, or its affiliates; or

2. are not immediate family members of officers, employees, principal stockholders of the institution, its subsidiaries, or its affiliates; or

3. do not have any material business dealings with the institution, its subsidiaries, or its affiliates.

Policy Statement Cthe Interagency Policy Statement on External Auditing Programs of Banks and Savings Associations issued by the Federal Regulatory Agencies.

Principal Stockholder Cany person that, directly or indirectly or acting through or in concert with one or more persons, owns, controls, or has the authority to vote more than twenty percent of any class of voting securities of the financial institution or its parent company. Voting securities owned or controlled by a member of a person's immediate family are considered held by that person.

Qualified Independent Internal Auditor Can internal auditor that meets the "independent internal auditor" definition in this subsection who is a duly registered certified public accountant in good standing under the laws of this state, a certified internal auditor, a chartered bank auditor, or an individual that has functioned as an internal auditor in financial institutions for a minimum period of two years that recognizes and adheres to the rules of conduct and personal standards established for the professional designation(s) he or she holds. Any certified public accountant functioning as an internal auditor must adhere to the rules of conduct and standards applicable to the CPA in practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:290, 6:793 and 6:1310.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR. 28:483 (March 2002).

§703. Minimum Standards for Director's Examination Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:290, 6:793 and 6:1310.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 16:17 (January 1990), repealed by the Office of the Governor, Office of Financial Institutions, LR 28:484 (March 2002).

If any provisions 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, item, or application.

John D. Travis
Commissioner

0203#082

RULE

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

**Collection Agency Examination
(LAC 10:XV.505)**

Under the authority of R.S. 9:3576.4 and Senate Concurrent Resolution 65 of the 2001 Regular Session of the Louisiana Legislature, and in accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Commissioner has adopted the following Rule which establishes the parameters of collection agency examinations by the Office of Financial Institutions.

Title 10

**FINANCIAL INSTITUTIONS, CONSUMER
CREDIT, INVESTMENT SECURITIES, AND UCC
Part XV. Other Regulated Entities**

**Chapter 5. Debt Collection Agencies
Subchapter A. Examinations**

§505. Parameters

A. Section 3576.2 of the Collection Agency Regulation Act, ("CARA"), R.S. 9:3576.1 et seq., empowers the Commissioner of Financial Institutions ("Commissioner") to regulate the licensing, operations, and practices of collection agencies and debt collectors to protect the welfare of the citizens of the State of Louisiana. R.S. 9:3576.5.D authorizes the Commissioner to examine the books, records, and accounts of all persons regulated by CARA. The Commissioner possesses the power to clarify, by rule, the parameters of the examinations performed by the Office of Financial Institutions. Those parameters include the examination of any and all of the records required to determine compliance with the CARA. Licensees are to maintain records in compliance with rules promulgated by the Commissioner. The Commissioner is further authorized to establish policies and procedures for the examination of in-state and out-of-state collection agencies and debt collectors; such policies and procedures may be modified from time to time to assure compliance with CARA.

AUTHORITY NOTE: Promulgated in accordance with R. S. 9:3576.4 and Senate Concurrent Resolution 65 of the 2001 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 28:484 (March 2002).

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

John D. Travis
Commissioner

0203#081

RULE

**Office of the Governor
Real Estate Commission**

**Change of Licensing Status
(LAC 46:LXVII.1507)**

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Real Estate Commission has amended LAC 46:LXVII.Chapter 15. The amendment defines the terms and conditions under which the post licensing education requirement must be completed by inactive licensees in order to transfer a license to active status.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXVII. Real Estate

Chapter 15. Transfers and Terminations

§1507. Change of Licensing Status

A. - B. ...

C. Any licensee transferring to inactive status without fulfilling his/her post licensing requirement will be required to complete the 30-hour post licensing course prior to transferring his/her license to active status.

D. The 30-hour post licensing course can be used to satisfy the continuing education or a portion of the continuing education required for transfer to active status as follows:

1. one to three years of inactive status C30 hours of post licensing in lieu of the required 20 hours of continuing education. Any licensee remaining in the inactive status for more than one year will also be required to complete a four-hour continuing education course covering the Louisiana Real Estate License Law and Commission Rules and Regulations within one-year prior to the date of the transfer to active status;

2. three to five years of inactive status C30 hours of post licensing and at least 10 hours of continuing education that includes a four-hour course covering the Louisiana Real Estate License Law and Commission Rules and Regulations. This four-hour course must be completed within one year prior to the date of the transfer to active status;

3. more than five years of inactive status C30 hours of post licensing and at least 50 hours of continuing education that includes a four-hour course covering the Louisiana Real Estate License Law and Commission Rules and Regulations. This four-hour course must be completed within one year prior to the date of the transfer to active status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:41, (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:485 (March 2002).

Julius C. Willie
Executive Director

0203#084

RULE

**Office of the Governor
Real Estate Commission**

**Post Licensing Education Eligibility of Courses, Vendor
Advertisement, and Continuing Education on an Individual
Basis (LAC 46:LXVII.5515, 5535, and 5539)**

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Real Estate Commission has amended LAC 46:LXVII.Chapter 55. The amendments are relative to real estate post licensing and continuing education vendors and serve to (1) require that post licensing courses be open to all licensees; (2) prohibit salesperson preclicensing educational credit for attendance at continuing education and/or post licensing courses; (3) allow broker preclicensing credit for attendance at certain continuing education and/or post licensing courses; and (4) remove the mandatory vendor code number from real estate school advertising guidelines.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXVII. Real Estate

**Chapter 55. Real Estate Post Licensing and
Continuing Education Vendors**

§5515. Eligibility of Courses

A. Post Licensing

1. Approved post licensing courses must be open to all licensees subject to post licensing requirements, regardless of broker affiliation. Each course acceptable for credit toward fulfillment of the 30-hour post licensing requirements for salespersons or brokers must be a minimum of 4 hours in length and require passage of an examination on course contents as conditions for receiving a post licensing certificate.

A.2. - 3. ...

4. Approved real estate schools shall not grant preclicensing educational credit to students enrolled in a salesperson preclicensing educational course for attendance at any continuing education and/or post licensing education course(s) presented by the school for real estate licensees.

5. Approved real estate schools, which present broker preclicensing educational courses separate from salesperson preclicensing courses, may request approval from the commission for continuing education or post licensing credit for real estate licensees, if the course meets applicable post licensing and/or continuing education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:56 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:485 (March 2002).

§5535. Advertisement

A. All advertisements by approved vendors shall state the exact name of the vendor as registered with the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:59 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:485 (March 2002).

§5539. Post Licensing and Continuing Education on an Individual Basis

A. - B. ...

C. The commission may approve, on a limited basis, courses offered by entities not registered as approved vendors with the commission. Such approvals may be granted to no more than three specific locations per approval, per non-registered vendor and shall be limited to two approvals per non-registered vendor within a one year period. Non-registered vendors requesting approval beyond this limit will be required to submit an application and receive approval as an approved vendor to be eligible to offer additional courses for post licensing and/or continuing education credit. Entities requesting approval under this provision shall comply with specific application and reporting procedures required by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:59 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:486 (March 2002).

Julius C. Willie
Executive Director

0203#065

RULE

**Office of the Governor
Real Estate Commission**

Real Estate Schools
(LAC 46:LXVII.5305, 5323, and 5329)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Real Estate Commission has amended 46:LXVII.Chapter 53. The amendments (1) update the content requirements for real estate prelicense courses; (2) establish the content and delivery methods for distance education courses; (3) provide for equivalent credit hours; and (4) remove the mandatory certificate of authority number from real estate school advertising guidelines.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXVII. Real Estate

Chapter 53. Real Estate Schools

§5305. Prelicensing Courses C Course Content and Delivery Method

A. The commission shall require certified real estate schools to meet content requirements established by the commission in courses offered for salesperson and broker prelicensing credits.

B. ...

1. Real Estate 101C90 hour course in real estate principles/practices, Louisiana Real Estate License Law, Commission Rules and Regulations, Law of Agency and Civil Law pertaining to real estate licensees;

2. Real Estate 201C90 hour basic real estate fundamentals review for broker applicants;

3. Real Estate 202C30 hour course on Louisiana License Law, Rules and Regulations of the Commission, Law of Agency and Louisiana Civil Law pertaining to real estate licensees;

B.4. - C. ...

D. In addition to traditional in-class prelicensing course offerings, the commission may approve prelicensing courses offered through distance education delivery methods. As used in this Chapter, a distance education delivery method is defined as internet-based instruction in which instruction takes place in other than a classroom setting, the instructor and the student are in physically separate locations, and interactive instructional methods are provided. The commission will approve only those courses through distance education delivery methods that are Internet-based instruction. Each course must meet the following standards:

1. be certified by the Association of Real Estate License Law Officials (ARELLO);

2. provide interactive instruction and teach to mastery;

3. provide a structured learning method that includes major units, clear objectives, modules of instruction, quantitative criteria, diagnostic assessments and remediations;

4. meet the content requirements and equivalent hours required by the commission for in-class presentations;

5. be offered by a Louisiana state certified real estate school;

6. college and university academic credit distance learning courses, if part of a college or university credit curriculum, must be individually approved by the commission, but may use course delivery methods not limited to the Internet.

E. Prior to submitting an application to the commission for approval of prelicensing education courses via Internet-based distance education, the school must apply for and receive approval of the method of course delivery for the proposed course from the Association of Real Estate License Law Officials (ARELLO). Only those courses that meet the commission's standards for course content and equivalent hours will be granted approval by the commission. After receiving approval from ARELLO, the school must file an application with the commission and include the complete application as filed with ARELLO.

F. Loss of ARELLO certification for a prelicensing course offered via Internet-based education will automatically suspend commission approval of this course.

G. As used in this Chapter, interactive means the course structure and technologies promote active student involvement with the course content, including the ability to:

1. access or bypass optional content, if applicable;

2. submit questions or answer test items, and receive direct feedback; and

3. communicate with the instructor and/or other students on an immediate or reasonably delayed basis. Interactive instruction specifically excludes courses that only provide passive delivery of instructional content.

H. Colleges and university academic credit courses for distance learning will not be required to be ARELLO approved if part of a college or university curriculum. Any other distance learning courses offered to the general public outside of a curriculum program must be ARELLO approved.

I. As used in this Chapter, college or university is defined as one who offers at least a two-year degree approved by the Louisiana Board of Regents or equivalent regulatory body in any other state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:52 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:486 (March 2002).

§5323. Certificates of CompletionC Classroom or Equivalent Hours

A. Each real estate school shall provide an individual certificate of completion or comparable completion verification to each student only upon successful completion of a course of study. Such verification shall include student name, date of completion, course level, number of hours or equivalent hours completed, and shall be signed by the school director or an authorized designee.

B. - D. ...

E. Equivalent hours, as used in this Chapter, means the time required for the average student to master the required content in a prelicensing course of instruction through an approved internet-based distance education course that is equivalent to the in-class prelicensing course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:54 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:487 (March 2002).

§5329. School Advertising

A. Advertising by certified schools shall be clear, concise and accurate. All advertisements shall be in the name of the real estate school as certified by the commission.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:55 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 28:487 (March 2002).

Julius C. Willie
Executive Director

0203#083

RULE

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

Authorized Practice
(LAC 46:XLVII.4513)

In accordance with the provisions of the Administrative Procedure Act, R.S.49:950 et seq., the Board of Nursing (board) and the Board of Medical Examiners pursuant to the authority vested in the board by R.S.37:918 (12) and 37:1031-1035, has amended the Professional and Occupational Standards pertaining to the authorized practice of Advanced Practice Registered Nurses. The amendments of the rules are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 45. Advanced Practice Registered Nurses

§4513. Authorized Practice

A. - C.2 ÿ

3. Definitions as used in this Part:

*Collaborating Physician*Ca physician in active practice with whom the APRN has developed and signed a collaborative practice agreement for limited prescriptive and distributing authority and who holds a current, unencumbered, unrestricted and valid medical license issued or recognized by the Louisiana State Board of Medical Examiners and is in good standing with no pending disciplinary proceedings, and practices in accordance with rules of the Louisiana State Board of Medical Examiners. A collaborating physician shall have current hospital privileges prior to an APRN seeking hospital privileges at the same institution.

*Joint Administration Committee or Committee*Cthe joint committee comprised of five members designated by the board and five members designated by the Louisiana State Board of Medical Examiners as follows:

i. one APRN practicing in a rural area, appointed by the board from a list submitted by the Louisiana Association of Nurse Practitioners;

ii. one APRN practicing in an urban area appointed by the board from a list submitted by Louisiana State Nurses Association;

iii. three registered nurses on the board appointed by the board;

iv. two physicians on the Louisiana State Board of Medical Examiners appointed by the Louisiana State Board of Medical Examiners;

v. one physician that collaborates with an APRN practicing in a rural area appointed by the Louisiana State Board of Medical Examiners from a list submitted by the Louisiana State Medical Society;

vi. one physician that collaborates with an APRN practicing in an urban area appointed by the Louisiana State Board of Medical Examiners from a list submitted by the Louisiana State Medical Society;

vii. one physician that collaborates with an APRN appointed by the Louisiana State Board of Medical Examiners from a list submitted by the Louisiana Medical Association.

Under Physician Direction the limited prescriptive authority as approved by the Joint Administration Committee and demonstrated in the collaborative practice agreement as provided for in R.S. 37:913(9). Physician direction of the APRN is essential and implies that there is informed concurrence of the limited prescriptive authority actions of the APRN, in accordance with written clinical practice guidelines in existence between the collaborating physician and the APRN. Although physician direction shall not be construed in every case to require the physical presence of the collaborating physician, he shall be within a reasonable distance to provide timely response to medical emergencies and he and the APRN must have the capability to be in contact with each other by telephone or other telecommunications devices. Reasonable distance implies that the collaborating physician is within the local area of the APRN's practice site or sites and is not attending an educational program or on vacation in another state or country.

4.a. - d. ¶

i. 500 hours of clinical practice as a licensed APRN within the last 6 months in the clinical specialty for which the applicant was educationally prepared as an APRN immediately prior to applying for limited prescriptive and distributing authority; practice in another state as a licensed APRN may be accepted to meet this requirement;

ii. successful completion of a minimum of 36 contact hours of education in advanced pharmacotherapeutics obtained as a component of a formal educational program preparing registered nurses for advanced practice or continuing education programs for advanced practice, approved by the board, within the 4-year time period immediately prior to the date of initial application for prescriptive and distributing authority with at least 12 hours having been obtained within two years prior to application. The APRN shall submit the continuing education advanced pharmacotherapeutics curriculum to the board for review and approval. The APRN shall obtain at least 2/3 of the required pharmacotherapeutic hours by attending continuing education programs and may obtain 1/3 of the required pharmacotherapeutic hours by non-lecture programs, such as computer assisted instruction and/or self-study accredited by a national professional accrediting organization approved by the board. Continuing Medical Units may be used as continuing education provided that the offering documents the number of advanced pharmacotherapeutic hours in the educational offering. In order for the continuing education course to be approved by the board, the course shall include:

4.d.i.(a). - v.(c). ¶

(i). is available by telephone or direct telecommunications for consultation, assistance with

medical emergencies, or patient referral; in the absence of the collaborating physician the following shall apply:

[a]. the back-up physician or physicians shall be in good standing and approved by the medical board and review and sign the collaborative practice agreement;

[b]. in the event that the collaborating physician fails to name a back-up physician, the collaborative practice agreement shall clearly state that the APRN will not prescribe in the absence of the collaborating physician;

4.d.v.(c).(ii). - (e). ¶

vi. the committee shall develop guidelines extending or modifying the requirements of "under physician direction", as defined in LAC 46: XLVII.4513.C.3, as well as the requirements of LAC 46:XLVII.4513.C.4.d.v. (c), for an APRN who is employed by or who contracts with the Louisiana Department of Health and Hospitals' Office of Public Health to specifically provide family planning, Human Immunodeficiency Virus ("HIV") infection or sexually transmitted disease treatment or services and Rural Health Clinics.

4.d.vii. - b. ¶

c. An APRN who is granted limited prescriptive authority shall not prescribe or distribute any controlled substance as defined, enumerated or included in federal or state statutes or regulations, 21 CFR 1308.11-15., R.S. 40:964, or any substance which may hereafter be designated a controlled substance by amendment or supplementation of the cited regulations and statute. The committee may authorize an APRN with limited prescriptive authority to prescribe or distribute controlled substances on an individual practice basis. An APRN who is so authorized shall provide their Drug Enforcement Administration registration number on all written prescriptions and be furnished on all oral prescriptions and shall comply with all scheduled drug prescription requirements in accordance with LAC 46:LIII.3531, Schedule Drug Prescription Requirements.

i. An APRN who is granted limited prescriptive authority may request approval of the Joint Administration Committee to prescribe and distribute controlled substances to the extent expressly authorized by the APRN's collaborating physician provided that:

(a). the APRN has been approved by the Joint Administration Committee to prescribe and distribute noncontrolled substances;

(b). the APRN has been approved by the board to prescribe and distribute noncontrolled substances;

(c). the APRN has practiced with limited prescriptive and distributing authority with the same collaborating physician in the APRN's licensed category and area of specialization for 500 hours immediately preceding the initial request and 160 hours of collaborative practice for each additional request;

(d). the APRN's application, provides to the satisfaction of the Joint Administration Committee, an identified need for controlled substances within the patient population served by the collaborative practice;

(e). controlled substances utilization is expressly contained in the collaborative practice agreement, which specifies the circumstances, limitations and extent to which such substances may be prescribed or distributed; and

(f). the collaborative practice agreement contains acknowledgment of responsibility by the collaborating physician to ensure that the controlled substance authority of an APRN is utilized in a manner that is consistent with any rule or regulation imposed upon his practice.

ii. Controlled substances which may be prescribed or distributed by an APRN shall be limited to Schedule III, IV and V and shall be limited to, consistent with, and exclusively within the parameters of the practice specialty of the collaborating physician and the APRN's licensed category and area of specialization. The committee may approve an APRN to prescribe certain drugs to treat Attention Deficit Disorder (ADD).

iii. An APRN granted authority to prescribe or distribute controlled substances shall not utilize such substances in connection with the treatment of:

(a). chronic or intractable pain, as defined in LAC 46:XLV.6515 - 6923;

(b). obesity, as defined in LAC 46:XLV.6901 - 6913; or

(c). oneself, a spouse, child or any other family member.

iv. Any APRN authorized to prescribe controlled substances shall provide to the Board a copy of his or her Louisiana Controlled Dangerous Substance permit and Drug Enforcement Administration registration number prior to prescribing or distributing controlled substances. A place for an APRN to write their DEA number, as well as the name, address and telephone number of the collaborating physician, shall be pre-printed on the prescription pad and a sample of the prescription shall be submitted to the board for approval prior to prescribing or distributing controlled substances.

d. ¶

e. Each year an APRN with limited prescriptive authority shall obtain six contact hours of continuing education in pharmacotherapeutics in their category and area of specialization. Documentation of completion of the continuing education contact hours required for prescriptive authority shall be submitted at the time of the APRN's license renewal. The APRN shall obtain at least 2/3 of the required advanced pharmacotherapeutic hours by attending continuing education and may obtain 1/3 of the required advanced pharmacotherapeutic hours by non-lecture offerings or Continuing Medical Education Units (CMEs) provided that the offering documents the number of advanced pharmacotherapeutic hours in the educational offering. In order for the continuing education program to be approved by the board, the program shall:

i. be provided by a board approved national certifying organization or provider approved by the board;

5.e.ii. - f. ¶

g. Prior to changes with the collaborating physician, or physicians or coverage physician, when applicable, the APRN shall notify the board in writing requesting approval of such changes. The board may approve changes in the

practice site or sites when both the collaborating physician(s) and APRN has been previously approved by the Committee and all other requirements are met as set forth in these rules. The APRN shall notify the board in writing within thirty days of all changes regarding practice sites.

5.h. - 6. ¶

a. Receive and distribute free drug samples and other gratuitous medications supplied by drug manufacturers, other than controlled substances, that shall:

6.a.i. - 10. ¶

11. Reinstatement. AN APRN who has been approved by the Joint Administration Committee for limited prescriptive and distributive authority and who has ceased practicing limited prescriptive authority for more than 12 months may apply for reinstatement of such authority.

a. In the event that the time period is greater than 12 months but less than 4 years the APRN shall:

i. meet the requirements as set forth in LAC 46:XLVII.4513.4.a, b, and c.

ii. provide evidence of 6 contact hours of continuing education in pharmacotherapeutics for each 12-month period of non-prescribing in their category and area of specialization. The APRN shall obtain at least 2/3 of the required advanced pharmacotherapeutic hours by attending continuing education and may obtain 1/3 of the required advanced pharmacotherapeutic hours by non-lecture offerings or Continuing Medical Education Units (CMEs) provided that the offering documents the number of advanced pharmacotherapeutic hours in the educational offering. In order for the continuing education program to be approved by the Board, the program shall:

(a). be provided by a board approved national certifying organization or provider approved by the board;

(b). include content relevant to advanced practice nursing and the use of pharmacological agents in the prevention of illness, and the restoration and maintenance of health.

b. In the event that the time period is greater than four years the APRN shall meet the requirements as set forth in LAC 46:XLVII.4513.4.a., b., c., and d.ii.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.(12), and R.S. 37:1031-1034.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 22:283 (April 1996), amended by the Board of Nursing and Board of Medical Examiners, LR 22:981 (October 1996), LR 25:1245 (June 1999), amended by the Board of Nursing, LR 27:727 (May 2001), amended by the Board of Nursing and the Board of Medical Examiners LR 28:487 (March 2002).

Barbara L. Morvant
Executive Director

and

John Bobear
Interim Executive Director

0203#052

RULE

**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)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Licensed Professional Vocational Rehabilitation Counselors Board of Examiners pursuant to the authority vested in it by R.S. 37:3445, has amended the Professional and Occupational Standards pertaining to Vocational Rehabilitation Counselors in order to make such rules consistent with changes in statutory law, and amended ethical standards and rules and procedures applicable to enforcement of ethical standards. The 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 28:490 (March 2002).

§503. Definitions

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

* * *

Practice of Rehabilitation Counseling Rendering 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 28:490 (March 2002).

**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 2 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 28:490 (March 2002).

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 28:491 (March 2002).

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 (LLPVRC), 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 28:491 (March 2002).

§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 28:491 (March 2002).

§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 client's 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 28:492 (March 2002).

§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 Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:493 (March 2002).

§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 RS. 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 28:493 (March 2002).

§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 28:494 (March 2002).

§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 28:494 (March 2002).

§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 28:494 (March 2002).

§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 28:495 (March 2002).

§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 Paragraph 3 of this Section.

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 28:495 (March 2002).

§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 28:496 (March 2002).

§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 28:496 (March 2002).

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.1. 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.

2. 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 28:496 (March 2002).

§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 28:497 (March 2002).

§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 exc uses 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 28:497 (March 2002).

§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 28:497 (March 2002).

§1705. Responsibilities of the Committee Administering the Complaint

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

1. reviewing complaints that have been received;

2. determining 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. notifying 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. requesting additional information from the complainant, licensee, or others;

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

6. preparing and sending, 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 28:497 (March 2002).

§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 28:498 (March 2002).

§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 28:498 (March 2002).

§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 LRCs 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 28:498 (March 2002).

§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 28:498 (March 2002).

§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 28:498 (March 2002).

§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 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 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 28:499 (March 2002).

§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 28:499 (March 2002).

§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 28:499 (March 2002).

§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 28:499 (March 2002).

§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 28:499 (March 2002).

§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 28:499 (March 2002).

§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 28:500 (March 2002).

§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 LLPVCR Code of Professional Ethics for Licensed Rehabilitation Counselors, he/she will be given 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 Paragraphs A.1 and 2, 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 28:501 (March 2002).

§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 28:501 (March 2002).

§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 28:501 (March 2002).

§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 28:502 (March 2002).

Robert Gisclair
Chairman

0203#057

RULE

Department of Health and Hospitals Office of Public Health Center for Environmental Health

Sanitary Code Water Supplies (LAC 48:V.Chapter 73)

The Department of Health and Hospitals, Office of Public Health, Center for Environmental Health, repeals the Rule entitled Water Treatment Plant Operator Certification consisting of the Louisiana Administrative Code, Title 48, Part V, sections 7301 through 7335, and enact a new Rule consisting of LAC, Title 48, Part V, Sections 7301 through 7339 authorized by R.S. 40:1148. The Rule is promulgated in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

In order to be in accord with the final guidelines published by the United States Environmental Protection Agency pursuant to the Safe Drinking Water Act, Section 1419 (42 U.S.C.A. 300g-8), and as published in the *Federal Register*, February 5, 1999 (Vol. 64, No. 24, pp. 5915-5921), and avoid the loss to the state of 20 percent of its Drinking Water Revolving Loan Fund (DWRLF) allocation, the Center for Environmental Health has adopted the following Rule.

Also, under the authority of R.S. 40:4 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Health and Hospitals, Office of Public Health (DHH-OPH) intends to amend Chapter XII (Water Supplies) of the Louisiana State Sanitary Code. This amendment is necessary to comply with requirements of the U.S. Environmental Protection Agency Safe Drinking Water Act Amendments (SDWAA) of 1996 as published in the *Federal Register*, (Vol. 64, No. 24, pp. 5915-5921) on February 5, 1999.

In order to remove the exemption for systems serving under 500 population, as required by the Federal Operator Certification guidelines, Chapter XII (Water Supplies) has been amended also.

The following Rule amendments which could have a minimal effect on family earnings and budget, they are not expected to have any effect on family stability, functioning, parental rights, authority and responsibility for children.

Title 48

PUBLIC HEALTH GENERAL

Part V. Preventive Health Services

Subpart 21. Water and Wastewater Operator Certification

Chapter 73. Certification

§7301. Definitions

A. Unless otherwise specifically provided herein, the following words and terms used in this Chapter are defined for the purposes thereof as follows.

Community Sewerage System Any sewerage system which serves multiple connections and consists of a collection and/or pumping/transport system and treatment facility.

Department the Louisiana Department of Health and Hospitals, Office of Public Health.

Person Can individual, a public or private corporation, an association, a partnership, a public body created by or pursuant to state law, the state of Louisiana, an agency or political subdivision of the state, a federally recognized Indian tribe, the United States government, a political subdivision of the United States government, and any officer, employee, or agent of one of those entities.

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:502 (March 2002).

§7303. Certification Requirements

A. The basic requirements for certification are set forth in R.S. 40:1141-1151.

B. The operator of any public water system or any community sewerage system shall hold current and valid professional certification(s) of the required category(s) at or above the level required for the total system and individual facility. Additionally, an operator shall demonstrate that, when not actually on site at the facility, he is capable of responding to that location within one hour of being notified that his presence is needed.

C. Systems operating multiple shifts are required to have a minimum of one certified operator present on each shift. Exact numbers of certified operators required may be determined by the committee of certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:503 (March 2002).

§7305. Categories of Certification

A. Certifications are offered in each of the following areas (categories), of qualification:

1. water production;
2. water distribution;
3. water treatment;
4. wastewater collection;
5. wastewater treatment.

B. Water production certifications are required on all facilities. For those systems which use groundwater as a source of raw water and which do not alter the physical, chemical or bacteriological quality of the water other than simple disinfection, operators will not be required to hold certificates for treatment in addition to production.

C. Water distribution certifications are required on all portions of the water supply system in which water is conveyed from the water treatment plant or other supply point to the premises of the consumer.

D. Water treatment certifications are required for all operators of facilities which use surface water as a source of raw water, as well as those groundwater systems that involve

complex treatment and/or which in some way alters the physical, chemical or bacteriological quality of the water. Water Treatment certification shall not be required for groundwater systems for which the only type of treatment employed is simple disinfection, and where the well(s) has been determined to be not under the direct influence of surface water.

E. Wastewater treatment certifications are required on all facilities which provide for the treatment of wastewater and the reduction and/or handling of sludge removed from such wastewater.

F. Wastewater collection certifications are required on all components of a sewerage system except for the sewage treatment plant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:503 (March 2002).

§7307. Levels (Classes) of Certification for Types of Facilities

A. Required levels of certification for an operator, based on facility classification, are as follows:

Population Served	Facility Classification
<1,000	Class 1
1,001-5,000	Class 2
5,001-25,000	Class 3
Over 25,000	Class 4

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:503 (March 2002).

§7309. Operator Qualifications C General (Education/Experience)

A. Whereas R.S. 40:1141-1151 specifies minimum operator qualifications in years, these values have been converted to "points" for ease of integration with continuing education credits and substitutions between education and experience. Operator qualifications for the various levels of certification shall be determined by minimum point values as follows:

Certification Level	Required Points
Op-In-Training	0
Class 1	1
Class 2	2
Class 3	5
Class 4	8

NOTE: A minimum educational requirement of a High School Diploma (or G.E.D.) is applied to ALL levels of certification. Required point values for education and experience are in addition to this minimum level of education. Point value required for Classes 1 and 2 may be from experience alone although 25 percent of this value may be acquired from education credit. No more than 75 percent of the total required points for Classes 3 or 4 may be obtained from education or experience alone.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:503 (March 2002).

**§7311. Operator Qualifications C Substitutions/
Assignment of Point Values**

A. Point values for education, continuing education, and experience are assigned as follows.

1. Education
 - a. Each year of formal college education (minimum of 30 semester hours) = 1 point
 - b. Each year of formal graduate level education = 1.5 points
 - c. Each semester hour (credit) for college-level courses = 0.033 point
 - d. Each 40-hour qualified, approved training course = 0.10 point
 - e. Each 8 hours of qualifying, approved continuing education = 0.02 point
 - f. Each 1 hour of qualifying, approved continuing education = 0.0025 point
2. Experience
 - a. Each year of qualifying operator experience = 1 point
 - b. Each year of qualifying related experience = 0.5 point
 - c. Each year of qualifying supervisory experience = 1.5 points

NOTE: No more than 75 percent of the total required points for any level may be obtained from education or experience alone.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:504 (March 2002).

§7313. Professional Certification

A. All persons seeking professional certification must be employed or seeking employment by a water or wastewater utility.

B. Certificates must be displayed by the holder in a prominent place in the classified facility. Additionally, at such time as a certified operator is issued a certified operator identification card, the operator shall carry his identification card on their person while on duty in the classified facility. Failure to do so may be considered grounds for revocation of the certificate in accordance with R.S. 40:1145(D).

C. Certificates shall be valid only so long as the holder uses reasonable care, judgment, and knowledge in the performance of his/her duties. No certificate will be valid if obtained or renewed through fraud, deceit, or the submission of inaccurate qualification data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:504 (March 2002).

§7315. Limited Certificates

A. Only those limited certificates issued prior to the effective date of these Rules, in compliance with R.S. 40:1141-1152 remain valid, and shall remain valid only for the system in which the operator was previously employed and for the conditions of operations and duties involved on the original effective date of this Rule. Limited certificates shall be renewable upon application provided the requirements for renewal without reexamination for certificates of even grade are satisfied. Persons granted limited certificates and renewals of limited certificates shall

pay the same fees as are fixed for mandatory certificates of like grade.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:504 (March 2002).

§7317. Operator-in-Training

A. Operator-in-Training certificates may be granted to newly hired personnel, who have not previously been certified, or who have not held any type of certification for in excess of two years, and who do not presently qualify for a professional or provisional certificate. Such individuals may make application for the appropriate category (water, wastewater) of operator-in-training certificate. The certification officer will then begin maintaining records of all approved education, training and experience credits accumulated by the operator-in-training. An operator-in-training certificate shall be valid for a period of 24 months from the date of issue, and may be renewed in the same manner as provisional or professional certificates. Operators-in-training may not be designated as the operator of the system/facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:504 (March 2002).

§7319. Provisional Certificate

A. A provisional certificate may be issued to any applicant who successfully passes an examination. Provisional certificates shall not qualify an individual to serve as the operator of a facility.

B. A provisional certificate may be converted to a professional certificate if the certificate holder meets all qualifications and assumes the duties of an active operator of a water or wastewater system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:504 (March 2002).

§7321. Examinations C General

A. All operators wishing to become certified by the State of Louisiana, must pass an examination demonstrating they have the necessary knowledge, skills, judgement, and abilities as specified by the committee of certification. All exam questions will be validated by the committee of certification or their appointees.

B. Exams shall be conducted in the English language.

C. The committee of certification has established open examination periods for water and/or wastewater operators to be examined. They are as follows.

1. One annual open exam shall be conducted at the conclusion of the annual Louisiana Conference on Water Supply, Sewerage and Industrial Waste "Short Course," meeting which is held in various locations around the state.

2. One open exam shall be conducted at the conclusion of the Louisiana Rural Water Association Annual Conference.

3. Other open examinations may be scheduled at other locations as determined by the committee of certification based on their determination of need subject to provisions of §7305 of these Rules.

4. Application for examinations to be given following scheduled training courses, seminars, workshops, etc., (as listed in §7329 and §7331 of these Rules) will be considered on a case-by-case basis by the committee of certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:504 (March 2002).

§7323. Examinations C Individual Operator Requirements

A. Individual operators must make written application to the committee of certification to take each examination or series of examinations. The application forms will be made available to the examinee prior to the exam period with ample time given to allow completion prior to the actual exam period. The operator (examinee) carries the responsibility for the accuracy of the information contained in the application.

B. Applicants for certification examinations must pay the prescribed exam fee at the conclusion of testing (see §7333 of these Rules).

C. All examinations shall be administered in the English language. Requests for examinations to be administered orally may be considered by the administrator, upon written request by an applicant, submitted at least 30 days in advance, with verifiable proof from a physician that the applicant has a medical condition temporarily preventing him from taking the examination in the conventional manner.

D. Exams shall be taken and passed in sequence from the Class 1 to the Class 4 in each category.

E. Applicants may not apply to take and may not take examinations for certification higher than one level above that for which they are currently qualified.

F. If an applicant takes an examination and fails to attain a passing grade (70 percent or higher), he must wait a minimum of 90 days before he can take another exam in the same category and level. After three failed attempts at the same examination, an applicant will be required to attend a 40-hour training course before retesting will be allowed.

G. All examinations will be graded by department personnel and retained for two years. The examinee will be notified of the results. Examinations will not be returned to the examinee, but may, upon written request, be reviewed in the Operator Certification Program Office in Baton Rouge within 30 days following receipt of the notification of results.

H. Individuals caught cheating during the operator certification examinations or found to have prejudiced these exams or applications in any way shall be entitled to an administrative hearing before the committee of certification. If the committee finds that valid grounds exist, it shall revoke the subject's current certificate, it may refuse to certify the applicant and it may reject future applications. As provided in the Administrative Procedure Act, an aggrieved party may seek judicial review of the committee of certification's action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:505 (March 2002).

§7325. Application for Certification

A. All applications for certificates shall be addressed to: Administrator, Operator Certification Program, Louisiana Department of Health and Hospitals, Office of Public Health, 6867 Bluebonnet Boulevard, Baton Rouge, LA 70810. Applications for certificates must be accompanied by the prescribed fees.

B. All initial applications for any category of either new certificates or renewal certificates received subsequent to the effective date of this Rule, shall be accompanied by a "Certification Law and Rules Examination" to be completed by the applicant as part of the application process.

C. Applicants who pass the required examinations, and meet the minimum education and experience requirements, and are actively employed by a water or wastewater system, will be notified that they may apply for the earned professional operator certification.

D. Applicants who pass an examination but do not meet the education and experience requirements will be notified of what education and/or experience and/or training is required to qualify. Such applicants, upon payment of the prescribed fee, will be issued a provisional certification in the classification(s) for which they have passed the examination(s). At whatever time the applicant qualifies, an application with the necessary fee must be submitted or re-examination may be required.

E. Individuals who have combined work experience in both water and wastewater may make written application to the certification committee for credit toward certification in either or both of the two categories. The work experience will be listed in a detailed resumé application which details the overlapping areas of work responsibility. This application will be certified by the immediate supervisor of the individual requesting certification. The committee of certification will rule on each individual application as presented. These applications will be reviewed twice a year by a screening subcommittee composed of members of the operator certification committee.

F. One individual may be designated as the operator over (several) more than one water or wastewater system or district provided that he can demonstrate that he is actively involved on a day-to-day basis in the operation of each of the systems, and is able to respond to the systems locations within one hour of notification that his presence is required.

G. Experience must be in actual water system or sewage system operation or its approved equivalent and must be in the field applying to the respective certificates. Experience as foreman or supervisor in most capacities in water and sewerage systems may be considered acceptable. Experience in purely clerical capacity, such as accounting, bookkeeping cannot be considered as acceptable experience. Experience in narrow technical capacities, such as laboratory technicians or meter readers may be considered for partial credit by the committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:505 (March 2002).

§7327. Renewal and Recertification

A. Renewal Requirements. In order to qualify for renewal of certificates held in any and all classes, all operators of water and sewerage works shall enumerate,

certify and provide evidence that he/she has attended a minimal number of contact hours of approved operator training for each certificate held during the previous two-year certification period. A minimum of 16 contact hours is required for renewal of any certifications held in water categories or 8 hours per certificate whichever is the greater. Likewise, a minimum of 16 contact hours is required for renewal of any certifications held in wastewater categories. Failure to attend the required training or failure to furnish the required information shall constitute grounds for refusal to renew the certificate. Approved training is defined as the completion of any of the training courses listed in §7329. It is strongly recommended that course outlines (or lesson plans) for other proposed in-service training be submitted for approval prior to the proposed date of training.

B. Recertification. Operators for whom certification has been expired in excess of two years are not eligible to renew their license(s), and shall be required to reapply for certification under the provisions of this Rule. In such cases, applicants shall be re-examined and shall demonstrate compliance with appropriate education and experience requirements before any certificates will be issued. In those instances where an operator's license has previously been revoked by the committee, the committee shall recommend any additional requirements for recertification that are deemed appropriate, and rule on the operator's eligibility to reapply for a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:505 (March 2002).

§7329. Training-General

A. Training Courses Available. To be approved for training credit by the Administrator of the Operator Certification Program, the training courses identified in Paragraph B of this Section must meet the following general requirements.

1. The administrator must have on file a copy of the course outline of the training course, seminar, workshop, etc. to make his approval decision.

2. Information must include dates, place held, sponsoring organization, speakers/instructors and time (length of subject), and target audience (category and levels of certification addressed).

3. No blanket approvals (from year to year) will be given or implied and a separate approval must be given by the Operator Certification Program each time training is given. On doubtful courses, the administrator will bring the matter to the committee of certification for disposition. (An aggrieved applicant may apply for an administrative hearing to be conducted by a panel of the committee of certification.)

4. Operators shall be responsible to assure the sponsoring organization submitting his certified transcript of training credits earned to the administrator.

B. Training courses, short courses, technical sessions, seminars, workshops, etc., recognized by both the committee of certification and department include, but are not limited to the following:

1. annual short course of the Louisiana Conference on Water Supply, Sewerage and Industrial Wastes;

2. regional conferences of one or more days sponsored and/or co-sponsored by the Louisiana Conference on Water Supply, Sewerage and Industrial Wastes;

3. American Water Works Association Annual Conferences, technical sessions, seminars and workshops;

4. National Association of Water Companies Annual Conferences seminars and workshops;

5. Southwest Section, American Water Works Association Annual Conference, technical sessions, seminars and workshops;

6. college or university and vocational-technical sponsored water and/or wastewater courses, as approved by the certification committee;

7. Water Environment Federation Annual Conference, regional meetings, technical sessions, seminars and workshops;

8. Louisiana Water Environment Association regional meetings, technical sessions, seminars and workshops;

9. Louisiana Rural Water Association annual training and technical conference, regional meetings, technical sessions, seminars and workshops;

10. Louisiana Environmental Training Center, at University of Louisiana at Lafayette, training courses, technical sessions, seminars and workshops;

11. regional meetings, technical sessions, seminars, workshops and/or training programs, sponsored and/or co-sponsored by the Department of Health and Hospitals, or the Department of Environmental Quality;

12. water and/or wastewater operator training courses approved for certification examinations by the committee of certification;

13. short schools, technical courses, seminars, workshops and training programs sponsored by other states.

C. A water and/or wastewater organization or utility not listed above may apply to the committee of certification for recognition and approval to conduct a training course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:506 (March 2002).

§7331. Examinations in Conjunction with Training Courses

A. Applicants for approved training courses may request that certification exams be conducted following the completion of the course. In order to obtain approval from the committee of certification, the applicant (sponsoring individual or organization) must comply with the following requirements and rules.

B. The applications must be submitted to: Administrator, Operator Certification Program, Louisiana Department of Health and Hospitals, Office of Public Health, 6867 Bluebonnet Boulevard, Baton Rouge, LA 70810.

C. Applications must be submitted 30 days prior to the beginning of the course.

D. No exam shall be conducted without prior written approval.

E. Blanket approval for training courses and exams will not be given by the committee of certification, i.e., each training course and each exam period must be approved according to these Rules.

F. No exam shall be approved to follow a training course consisting of less than 32 hours. An exception to this Rule

may be granted to the Louisiana Conference on Water Supply, Sewerage and Industrial Waste as this organization and its sub-organizations comprise the official training arm of the committee of certification.

G Approval will be given to conduct exams only for the classes and categories covered by the training course, i.e., for training in Class I, II, III or IV in production, treatment or distribution, or wastewater collection or treatment.

H. The classes and categories for which the course is designed must be stated in the application.

I. The applicant must submit a detailed course outline to include:

1. the goal of the training course;
2. which operators in water and/or wastewater would benefit from taking the course;
3. each subject to be covered;
4. a formal lesson plan for each subject area to be covered;
5. the number of hours covered in each subject;
6. what references will be supplied in the course;
7. what references and materials the student should bring to the course.

J. The applicant must submit the names of all instructors, and their qualifications, including their education and work experience credentials and their certification levels. Instructors shall possess, at a minimum, a "provisional" certification in the subject area covered; or, shall have completed a qualified instructor training course or equivalent; or, be specifically accepted by the committee based upon their credentials.

K. Only those examinations prepared under the auspices of the administrator and the committee of certification will be recognized for certification.

L. All examinations will be conducted and monitored by members of the staff of the department and/or members of the committee of certification. No exams will be conducted without the presence of a sufficient number of monitors approved by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:506 (March 2002).

§7333. Examination Fees

A. All fees for examinations shall be paid to the committee of certification.

B. Examination Fees shall be established as authorized by the Legislature, but in no case shall be less than \$5 per exam.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:507 (March 2002).

§7335. Certification Fees

A. Certificate fees, in addition to the examination fee, shall be:

1. collected for issuance, renewal and/or reciprocation of all classes of certificates. The amount of the certificate fee shall be as established by the legislature, but in no case shall be less than \$10 for certification in the first category in water and/or sewerage and an additional \$5 for each added category;

2. communities, municipalities, utilities and/or corporations may elect to utilize a flat fee system regarding their employees' certification. For a fee of \$50 per year for either field of water or sewerage or \$100 per year for both, all eligible operators may be certified, either initially or renewed. In addition to the flat fee, there will be a \$5 per certificate charge for each certificate issued. In the instance of the flat fee, the individual operators at each facility will be the responsibility of the principal of the organization and shall be submitted with each renewal (flat fee) payment;

3. duplicate certificates will be issued for a fee of not less than \$5 per certificate.

4. water and wastewater operator certificates will be renewed on a two-year basis, with the fees remaining at the same annual rates as are currently in effect but collected every two years.

5. fees are to be paid in the form of a check or money order payable to the Committee of Certification, 6867 Bluebonnet Boulevard, Baton Rouge, LA 70810. Failure to attend the required training or failure to furnish the required information shall constitute grounds for refusal to renew the certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:507 (March 2002).

§7337. Reciprocity

A. Reciprocity shall be granted at the discretion of the committee of certification, without examination, to holders of comparable certificates issued by other states, territories, or possessions of the United States. The applicant for a certificate under the reciprocity clause must submit his application on an official application blank, obtainable from the administrator. The application must be accompanied by the appropriate fee. The applicant must submit a copy of his certificate or other proof, satisfactory to the committee of certification that he holds a certificate issued by a governmental agency of another state, territory or possession of the United States. Such certificates must have been received after passage of an examination at least equivalent to that given by the Louisiana committee of certification for the level of competency for which application is made.

B. The burden of proof to submit sufficient information for the committee of certification's consideration shall be upon the applicant. If, after receiving such an application, the committee of certification is satisfied that the applicant qualifies for a certificate, it may, at its discretion award him a certificate in the appropriate grade. A reciprocal certificate will not ordinarily be issued unless the applicant is employed, or has accepted employment, in a Louisiana water or wastewater facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:507 (March 2002).

§7339. Notification

A. Failure to receive any notices previously mentioned does not relieve the certificate holder or applicant from complying with the rules of the committee of certification. The burden is upon the certificate holder or applicant to

provide the committee of certification with a current mailing address.

B. Any request for applications, training course approvals, reciprocity, etc., and/or questions on operator certification should be addressed to: Administrator, Operator Certification Program, DHH-OPH, 6867 Bluebonnet Boulevard, Baton Rouge, LA 70810.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1141-1151.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:507 (March 2002).

The amendment to Chapter XII of the Sanitary Code, State of Louisiana reads as follows:

**Sanitary Code, State of Louisiana
Chapter XII (Water Supplies)**

12:003-2: Plant Supervision and Control: All public water supplies shall be under the supervision and control of a duly certified operator as per requirements of the State Operator Certification Act, Act 538 of 1972, as amended (R.S. 40:1141-1151).

David W. Hood
Secretary

0203#080

RULE

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

Rural Health Clinics Licensing Standards
(LAC 48:1.Chapter 75)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has amended the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Rule is amended in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48

PUBLIC HEALTH GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 75. Licensing of Rural Health Clinics

§7501. Definitions and Acronyms

Professional Services documented on-site visits at the clinic or in locations other than the clinic, such as the patient's home, for the purpose of providing professional level skilled services. *Professional Services* include physical assessment, any of the waived clinical laboratory tests and treatment/education for the illness diagnosed when provided by a qualified professional as defined below.

Qualified Professionals one of the following professionals qualified to provide services:

- a. Physician/Doctor of Medicine (MD);
- b. Advanced Practice Registered Nurse (APRN);
- c. Licensed Physicians Assistant (PA);

d. Licensed Social Worker/Clinical Social Worker (LCSW);

e. Licensed Clinical Psychologist (LP).

Secretary/secretary of the Department of Health and Hospitals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:508 (March 2002).

§7503. Licensing

A. General Provisions. Rural Health Clinics shall:

- 1. ...
- 2. meet and maintain compliance with all current DHH minimum licensing standards;
- 3. - 4. ...
- 5. The rural health clinic license shall be posted within public view in a conspicuous place within the facility.

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

b. Complete and submit an original rural health clinic licensing application.

B.2.c. - C.2.d. ...

D. Informal Dispute Resolution. Following each survey, the provider will have one opportunity to question citations of deficient practice through an informal dispute resolution process. Notice is sent with each statement of deficiencies and provides instructions on how to request the informal dispute resolution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:508 (March 2002).

§7505. Denial, Revocation, or Non-Renewal of License

A. The Secretary of DHH may deny an application for a license, refuse to renew a license or revoke a license when an investigation reveals that the applicant or licensee is not in conformance with or in violation of the provisions of R.S. 40:2197, provided that in all such cases, the Secretary shall furnish the applicant or licensee 30 calendar days written notice specifying the reasons for the action.

B. A rural health clinic license may be denied, revoked, or non-renewed for any of, but not limited to, the following reasons:

- 1. failure to meet any of the minimum standards, rules and regulations as prescribed under R.S. 40:2197;
- 2. conviction of a felony, as shown by a certified copy of the applicant's record of the court of conviction, or if the applicant is a firm or corporation, on any of its members or officers, or of the person designated to manage or supervise the facility; or if the supervisor of the facility is not reputable; or if the staff or a member of the staff is temperamentally or otherwise unsuited for the care of the patients in the facility. For the purposes of this Paragraph, *conviction of a felony* means and includes:
 - a. conviction of a criminal offense related to that person's involvement in any program under Medicare or Medicaid, since the inception of those programs;

- b. conviction of a felony relating to violence, abuse and/or neglect of a person;
- c. conviction of a felony related to the misappropriation of property belonging to another person;
- 3. failure to comply with all federal, state and local laws;
- 4. failure of the facility to protect patients/persons in the community from harmful actions of the clinic employees, including but not limited to:
 - a. health;
 - b. safety;
 - c. coercion;
 - d. threat;
 - e. intimidation;
 - f. solicitation; and
 - g. harassment;
- 5. failure to maintain adequate staff to provide necessary services to current active patients;
- 6. failure to employ qualified personnel;
- 7. failure to remain fully operational at all times for any reason other than a disaster;
- 8. failure to submit fees, including but not limited to, annual renewal fee at least 30 days prior to the license expiration date;
- 9. failure to allow entry to the rural health clinic or access to any requested records during any state or federal survey;
- 10. cruelty to patients.

C. Any involuntary termination, failure to renew, or voluntary termination of the facility's license to avoid adverse action will automatically prevent the facility, the facility owners, professional staff, administrative staff, family members and others as appropriate from applying for a RHC license, or from owning or working with a rural health clinic, for at least one year. Persons who own 5 percent or more of a facility are considered owners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:508 (March 2002).

§7507. Changes/Reporting

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

d. use of a contract mid-level practitioner instead of the employee for any period of time greater than 30 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:509 (March 2002).

§7509. Annual Licensing Renewal

A. Department of Health and Hospital Responsibilities. It is the responsibility of DHH to:

- 1. send a letter of notification of license renewal to the facility approximately 45 days prior to expiration of the license;
- 2. conduct an annual survey to assure that the facility provides quality care and adheres to licensing requirements; and
- 3. make a determination and take appropriate action regarding licensing.

B. Rural Health Clinic Responsibilities. It is the responsibility of the RHC to:

- 1. notify DHH if the renewal letter is not received in a timely manner;
- 2. complete the licensing application and obtain and submit other required data; and
- 3. submit the appropriate license fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:509 (March 2002).

§7511. Notice and Appeal Procedures

A. Administrative Appeal. In accordance with the Administrative Procedure Act, the facility may request an administrative appeal when notice is received of denial of initial license, denial of a license renewal or revocation of the license. The request for the administrative appeal must be submitted in writing to the Department of Health and Hospitals, Office of the Secretary, within 30 days of receipt of the notice of the adverse action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:509 (March 2002).

§7515. Voluntary Cessation of Business

A. - A.2. ...

B. Expiration of License. Failure to renew a license prior to its expiration date shall result in non-renewal of the license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:509 (March 2002).

§7517. Personnel Qualifications/Responsibilities

A. - B.1.b. ...

2. Mid-level Practitioner. The mid-level practitioner shall be appropriately licensed and credentialed as either an advanced practice registered nurse (family nurse practitioner) or physician's assistant. The mid-level practitioner(s) shall be required to maintain Advanced Cardiac Life Support (ACLS) certification to assure his/her proficiency in accepted standards of emergency care. If a facility has a current written agreement with an advanced life support provider, who can provide care within 10 minutes, then the mid-level practitioner and/or physician are exempt from this required certification.

B.2.a. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:509 (March 2002).

§7519. Services

A. - A.2. ...

B. Diagnostic Services. The clinic must have the capacity to evaluate and make initial diagnoses on-site in order to refer the patient to the appropriate facility for treatment and/or more definitive diagnoses. RHCs shall, as a

minimum, provide basic laboratory services essential to the immediate diagnosis and treatment of the patient. This includes:

1. chemical examinations of urine by stick or tablet method, or both (including urine ketones);
2. hemoglobin or hematocrit;
3. blood glucose;
4. examination of stool specimens for occult blood;
5. pregnancy tests; and
6. primary culturing for transmittal to a certified laboratory.

C. - C.1.c. ...

2. Emergency Care. The clinic shall maintain emergency equipment, medications and personnel to provide pre-hospital advanced cardiac life support until emergency transportation can arrive and assume care of those in need of services.

C.2.a - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:509 (March 2002).

§7521. Agency Operations

A. - A.2.d. ...

B. Agreements. Written agreements shall be clearly worded, dated, reviewed and signed by all parties. All agreements shall be updated as needed to reflect any changes in relationships, provision of services, or other pertinent information.

C. Operation Hours. A facility shall provide:

1. primary care services at least 36 hours per week. For rural health clinics located in parishes designated as priority access, mobile units and RHC's with low caseloads, the Department may waive such requirement if:

a. the RHC demonstrates to the satisfaction of the Health Standards Section of DHH that by providing primary care services less than 36 hours per week, patients are not denied access to care;

b. the Department determines that a waiver of the requirement will not endanger the health or safety of patients needing RHC services; and

c. a waiver granted by the Department is subject to annual review;

2. on-call qualified professional assistance for 24 hours per day, seven days per week;

3. appropriately qualified professional staff on duty during all hours of operation. Failure to do so will result in immediate adverse action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:510 (March 2002).

§7523. Procedural Standards

A. The following processes are required for rural health clinics in Louisiana:

1. Access to Care. Rural health clinics shall:

a. be in compliance with R.S. 40:2007 if the RHC is located within another health care provider.

A.1.b. - A.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:510 (March 2002).

§7533. Advisory Committee

A. All members of the advisory committee shall be designated in writing and approved by the governing board. The advisory committee shall be composed of two medical professionals, and at least one consumer of services, not employed by the facility. However, facility staff should attend meetings.

A.1. - A.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:510 (March 2002).

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.

David W. Hood
Secretary

0203#064

RULE

**Department of Insurance
Office of the Commissioner**

**Rule 10C Continuing Education
(LAC 37:XI.717 and 723)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et. seq., and under the authority of the Louisiana Insurance Code, R.S. 22:1 et. seq., the Department of Insurance hereby amends Part XI of Title 37, by amending Chapter 7, Rule Number 10, Continuing Education Programs, as required to bring it into compliance with R.S. 22:1193. J., which was enacted by Act 290 during the 2001 Regular Session of the Louisiana Legislature and made effective August 15, 2001.

Title 37

INSURANCE

Part XI. Rules

Chapter 7. Rule Number 10-Continuing Education

§717. Rule 10.10. Measurement of Credit

A. - F. ...

G. Qualified continuing education programs earning a graduate level professional designation such as CPCU, CLU, ChFC, etc., will be subject to special rules as contained in this paragraph. Licensees which successfully pass a qualified graduate level national designation program examination shall earn 24 continuing education credit hours for property-casualty courses and 16 continuing education credit hours for life-health courses.

AUTHORITY NOTE: Promulgated in accordance with Act 428 of the 1989 Louisiana Regular Legislative Session, R.S. 22:1193, and the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of Licensing and Compliance, LR 16:855 (October 1990), amended LR 28:510 (March 2002).

§723. Rule 10.13. Credit for Individual Study Programs

A. ...

B. Continuing education credit for individual study programs must be applied to the current license renewal and may not be carried over to subsequent license renewals. No individual study program will be certified for more than 24 continuing education credit hours for property-casualty courses or 16 continuing credit hours for life-health courses.

C. Qualified individual study program providers (example: national publishing companies) may not contract their provider status to other CE providers. The integrity of materials and testing are the responsibility of the approved provider and must be maintained under their direct control. Local CE providers may act as vendors or marketing agents of approved individual study program providers as long as the provider controls the materials and testing.

AUTHORITY NOTE: Promulgated in accordance with Act 428 of the 1989 Louisiana Regular Legislative Session, R.S. 22:1193, and the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of Licensing and Compliance, LR 16:855 (October 1990), amended LR 28:511 (March 2002).

J. Robert Wooley
Acting Commissioner

0203#054

RULE

**Department of Labor
Office of Regulatory Services**

Private Employment Service (LAC 40:XV.Chapter 1)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Labor, Office of Regulatory Services has amended Rules and Regulations governing the Private Employment Services regarding the administration of the functions of the department under the authority of R.S. 36:304(3).

All Rules and Regulations heretofore adopted by the Louisiana Department of Labor, Office of Regulatory Services, for the administration of laws pertaining to Private Employment services, including but not limited to those Rules adopted April 20, 1991, are hereby repealed in their entirety.

**Title 40
LABOR AND EMPLOYMENT**

Part XV. Private Employment Services

Chapter 1. General Provisions

§101. Definitions

Employment Service Manager Can individual designated by the employment service to conduct the general management, administration and operation of a specified private employment service (PES) office.

On-Site Consultant Can individual designated by the employment service, to conduct the general management, administration and operation of a specified private

employment service (PES) office, but does not carry the title of manager.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:511 (March 2002).

§103. Operational Mandates

A. A licensee must file with the Assistant Secretary a bond written by a surety company authorized to do business in this state for each licensed office in the sum of \$5,000. The Beneficiary of said bond shall be the Assistant Secretary. An approved bond form (OOL-2) must be executed by the surety company in accordance with data requested on said form and the dates of the bond must coincide with the inclusive dates of the license. Only original bonds containing surety seal will be accepted.

B. A licensee must furnish the Office of Regulatory Services with its business telephone number.

C. A licensee shall at all times conspicuously post, in the main receiving area of his/her office, the current "original" private employment service license to operate.

D. A licensee shall at all times conspicuously post, in the main receiving area of his/her office, a current copy of his/her approved applicant schedule of fees printed in not less than 30-point bold face type.

E. A licensee shall at all times conspicuously post, in the main receiving area of his/her office, a Notice stating that Copies of the Rules and Regulations Governing Private Employment Services and any supplement thereto are available for inspection upon request.

F. Each licensed service must have an individual designated as the on-site manager for that location, or an on-site consultant who has been tested. No individual may be designated as a private employment service manager at more than one location. Each manager and/or on-site consultant shall have successfully passed the private employment service examination.

G. A licensee shall agree to make all records and data pertinent to placement, available to any Office of Regulatory Services Compliance Officers or officials upon request.

H. Prior to sending an applicant on a job interview, the employment service must have a job order from the employer granting permission to the service to submit applicants for a fee, if hired. Each job order must contain the following:

- 1. date;
- 2. employer name and address;
- 3. position description; and
- 4. approximate salary.

I. Individual documentation must be executed on each interview referral.

J. Any amended fee schedule must be filed with and approved by the Assistant Secretary or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the

Department of Labor, Office of Regulatory Services, LR 28:511 (March 2002).

§105. Limitation On Licensees

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), repealed by the Department of Labor, Office of Regulatory Services, LR 28:512 (March 2002).

§107. Prohibited Conduct

A. No employment service, employment service manager, and/or consultant shall engage in the following conduct:

1. advertise or use letterheads, receipts, or other written or printed matter unless such materials contain the name of the employment service, as registered with and licensed by the assistant secretary;

2. require an applicant placed in an employer-fee-paid position to pay a fee of any kind;

3. permit an applicant to sign a power of attorney, promissory note, negotiable instrument, or assignment of wages in an amount exceeding the approved and posted fee;

4. no employment service licensee, manager or consultant shall use an alias or any other name in the course and scope of their employment other than their legal name, unless registered with the Office of Regulatory Services within 30 days from the effective date of these rules. No such request for registration received after 30 days from the effective date of these rules will be considered;

5. charge or receive a fee from an applicant prior to the actual commencement of work on a job procured by the employment service, manager, or consultant, except that where an employed applicant accepts new employment after having signed a contract but fails to report to work on the new job and instead remains with his present employer, a fee not to exceed 20 percent of the fee for permanent employment on the new job may be charged.

6. other than as described in §107.E hereinabove, an employment service shall not receive a fee from an applicant who does not commence work on a job procured by the employment service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:512 (March 2002).

§109. Application for License

A. Initial License

1. Forms Required to be Completed and Submitted

a. OOL-1 Application. The facts specified in the application must be sworn and attested before a notary. All applications must be signed by the proposed licensee.

b. OOL-2 Bond Form. In the amount of \$5000 executed by a Surety Company licensed and authorized to do business in Louisiana. Each bond must bear a surety seal and contain licensee's name, private employment service business name, trade names, if applicable and physical location.

c. Corporations shall submit a certified copy of the Articles of Incorporation, which contains the gold seal from the Louisiana Office of Secretary of State.

d. Corporations registered outside of Louisiana must furnish an original certificate of authority to operate in Louisiana, which certificate is issued by the Louisiana Office of Secretary of State.

e. Partnerships shall submit a certified copy of the Articles of Partnership, which contains the gold seal from the Louisiana Office of Secretary of State. Licensee's name must be listed in the Articles of Partnership.

2. Additional Requirements

a. Three notarized statements from character references.

b. The proposed applicant's contract must be submitted and approved by the Assistant Secretary.

c. Licensees, managers, and/or on-site consultants must pass a written examination, administered by the Office of Regulatory Services, with a score of at least 80 percent.

d. Each proposed licensee must submit a resume detailing his/her business involvement during the preceding 10 years.

e. Each proposed licensee must submit a letter stating whether or not he/she has ever been convicted of a felony or misdemeanor. If he/she has been convicted, full particulars must be given including the offense, the date, the sentence and the court in which the proceeding occurred.

f. A license shall be required for each employment service operated or advertised.

g. Each licensee shall pay a \$300 investigation fee.

h. Services that are "Exclusively Employer Fee Paid" shall submit a notarized statement attesting to same.

i. License fee shall be \$200 per year for each location.

j. License fee for an out-of-state employment service which merely advertises in the state shall be the same as the fee for employment services located in Louisiana.

k. Every license issued shall remain in force until December 31 of year of issuance, unless such license has been revoked pursuant to the provisions of this law or the licensee submit a notarized request to cancel the license.

l. Each corporation must designate an individual, to be tested and to be the licensee. If the licensee leaves the corporation, it must designate a new individual to be licensed. If designated individual is not listed in the Articles of Incorporation, the Board of Directors must furnish a notarized letter attesting to the designated individual's position within the corporation or file an amendment to the articles.

m. Each partnership must designate at least one partner to be tested and to be the licensee. If the licensee leaves the partnership it must designate a new individual to be licensed. If designated partner is not listed in the Articles of Partnership, an amendment to the Articles of Partnership must be filed listing that individual's name.

B. Renewal Licenses

1. Forms required to be completed and submitted:

a. OOL-1 Renewal Application;

b. OOL-2 Bond Form (original only) executed by Surety Company or Continuation Certificate, (original only) from Surety Company, the period of coverage must

correspond with the license year. Said bond form or continuation certificate must contain licensee's name, private employment service business name, trade name, if applicable and physical location;

c. beginning date of bond or continuation certificate must be January 1 of license year and expiration must be through December 31, of license year.

2. Additional Requirements

a. Licensees must submit their applicant contract for approval.

b. Services that are "Exclusively Employer Fee Paid" shall submit a statement affirming same.

c. Application for renewal must be received by the Office of Regulatory Services no later than the last business day of the calendar year for which the current license was issued.

d. The failure of any licensee who fails to timely renew a license shall require that the employment service office be closed.

e. Renewal fee shall be \$200 per year for each office location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:512 (March 2002).

§111. Reporting Requirements

A. Address Change

1. Any change in a licensed employment service's physical location must be reported in writing to the Office of Regulatory Services by the licensee(s) at least two weeks prior to such change.

2. A rider (original only) from the surety company affecting the new address must be submitted to the Office of Regulatory Services prior to such change.

3. Licensee(s) shall return to the Office of Regulatory Services the current original license for reissuance of updated address.

B. Closure of Employment Service

1. Licensee(s) shall notify the Office of Regulatory Services, in writing immediately upon closing an employment service location.

2. Licensee(s) shall return to the Office of Regulatory Services the current original license for proper cancellation.

C. Change of Ownership

1. Licensee(s) shall notify the Office of Regulatory Services of any change in ownership of employment service immediately. Such notification must be received 14 days prior to the actual sale.

2. Licensee(s) shall return current original license to the Office of Regulatory Services for proper cancellation.

3. Licensee(s) shall inform the Office of Regulatory Services of proposed new owner/owners' name(s) and address(es).

D. A private employment service license is not transferable and it will not authorize any individual other than the individual to whom it is issued, nor any place or

business transacted under any name, nor physical location, other than that designated in the license.

E. Change of Licensed Business Name

1. Licensee(s) must notify the Office of Regulatory Services, in writing, when changing licensed business name, prior to name change.

2. Licensee(s) must furnish the Office of Regulatory Services, a rider (original) from the surety company covering the new name.

3. Licensee(s) shall return to the Office of Regulatory Services the current original license for reissuance of updated business name.

F. The Office of Regulatory Services will not license services with deceptively similar names.

G. Change of Manager or on-site Consultant

1. Licensee (s) must notify the Office of Regulatory Services in writing, immediately when changing manager or on-site consultant.

2. Licensee (s) shall furnish the Office of Regulatory Services with new manager's and/or on-site consultant's name.

3. Licensee(s) shall send \$100 fee for each exam administered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:513 (March 2002).

§113. Examinations

A. Each individual named as a private employment service licensee, and each individual named as a private employment service manager and each individual named as an on-site consultant, shall demonstrate sufficient knowledge of the private employment service law, rules and regulations by scoring at least 80 percent on a written examination.

B. The private employment service examination will be developed, administered and scored by the Assistant Secretary, Office of Regulatory Services, or his designee.

C. Each individual to whom the private employment service examination is administered shall pay to the Assistant Secretary a fee of \$100, which shall not be refundable under any circumstance.

D. Examinations will be given within 10 days from the date of request and may be administered at the Office of Regulatory Services' Administrative Office, Baton Rouge, Louisiana, or at any Office of Regulatory Services Field Office at the convenience of the party being tested.

E. Test results will be provided on the same day that the completed examination is received by the Private Employment Service Program Compliance Officer Supervisor for scoring.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:513 (March 2002).

§115. Fees For Placement

A. Resume Preparation

1. An employment service may prepare an applicant's job resume upon applicant's request at a cost not to exceed the fee set in R.S. 23:111.B(1)(b). The employment service shall furnish the applicant with a copy of the prepared resume at no additional cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:514 (March 2002).

§117. Investigations

A. The Assistant Secretary, upon receipt of a complaint or upon his own motion may initiate an investigation into any alleged violations of the Employment Service Law or of these rules and regulations promulgated there under.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:514 (March 2002).

§119. Revocation

A. No new license shall be issued to any individual whose prior license has been revoked until the expiration of at least two years, and then only upon a proper showing that the reasons for the revocation have been corrected, that all other requirements for a license have been met, that the necessary examinations have been taken and passed, and that all fees have been paid. The burden of proof shall be on the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:514 (March 2002).

§121. Enforcement Procedures

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), repealed by the Department of Labor, Office of Regulatory Services, LR 28:514 (March 2002).

§123. Private Employment Services Contract

A. Applicant Contract Date: _____

1. This contract is entered into by and between _____, hereinafter referred to as the applicant and, hereinafter referred to as the Employment Service.

2. Should applicant accept employment with an employer or subsidiary to which the employment service has referred within 12 months from date of referral, applicant agrees to pay for professional services in accordance with the schedule contained in Paragraph five. This contract is

valid for a period of one year from the above date or can be terminated by either party at any time by written notice, but not to the detriment of any legal rights or obligations incurred prior to such termination.

3. Acceptance means agreement by applicant with an employer to begin work.

4. Schedule of Fees (Rate of Professional Service Charges Based on Projected Annual Compensation at Time of Acceptance). The method of computing applicant's projected annual compensation, shall be 52 times applicant's weekly compensation, or 12 times applicant's monthly compensation or as outlined in Paragraph 7 of this contract. These estimates are for the purpose of computing service charges and in no way guarantee the procured employment for a year.

5. Schedule of Fees

Estimated Gross Annual Compensation	
Maximum Fee	
Less than \$ 4,000	4%
\$4,000 but less than \$ 5,000	5%
\$5,000 but less than \$6,000	6%
\$6,000 but less than \$ 7,000	7%
\$7,000 but less than \$ 8,000	8%
\$8,000 but less than \$ 9,000	9%
\$9,000 but less than \$10,000	10%
\$10,000 but less than \$11,000	11%
\$11,000 but less than \$12,000	12%
\$12,000 but less than \$13,000	13%
\$13,000 but less than \$14,000	14%
\$14, 000 but less than \$15,000	15%
\$15, 000 but less than \$16,000	16%
\$16,000 but less than \$17,000	17%
\$17,000 but less than \$18,000	18%
\$18,000 but less than \$19,000	19%
\$19,000 but less than \$20,000	20%
\$20,000 but less than \$21,000	21%
\$21,000 but less than \$22,000	22%
\$22,000 but less than \$23,000	23%
\$23,000 but less than \$24,000	24%
\$24,000 but less than \$25,000	25%
\$25,000 and up shall never exceed	25%

Fees are rounded down to the nearest dollar.

6. It is agreed that applicant shall at all times have the right to refuse any employment tendered. The fee of the employment service is earned when applicant accepts employment, payable as follows except that in no case shall any portion of the fee be collected before the applicant commences work on the new job and in no case shall the full amount of the fee be mandatorily payable sooner than 30 days from the date employment begins.

Guarantee

If the position the employment service has obtained for applicant ends within 90 consecutive calendar days from date of employment, regardless of reason, the Service Charge will be reduced to 20 percent of the gross earnings of the applicant. All refunds due shall be made promptly by the employment service upon proper verification of earnings with the employer, and in no case shall the delay exceed 14 days from date verification in writing is received. The applicant shall be responsible for obtaining verification of earnings from employer. If applicant accepts a position and then remains with his present employer, he agrees to pay 20 percent of the applicable fee for the position accepted.

7. If applicant accepts a job where he/she is compensated on a straight commission, drawing account, salary plus bonus or any combination of these, he/she agrees that the employment service fee shall be based on his/her first full year's gross compensation as estimated by the employer. The fee shall be adjusted downwards or upward accordingly at the end of the first full year of employment based upon proof of actual compensation. Requests for adjustment must be made by either party in writing within 60 days following the first full year of employment or termination, whichever is sooner. Under no circumstances will overtime pay be included in gross earnings.

8. Applicant's acceptance of an introduction by the employment service shall take precedence over any previous application he may have filed with said employer.

9. Applicant hereby stipulates and agrees to pay a penalty of 25 percent as attorney fees, plus court cost, on the earned fees due the employment service should it become necessary for the service to obtain counsel, a collection service, or resort to court action to collect same.

10. Applicant hereby stipulates that any agreement regarding the reimbursement of the service charge to applicant by the employer, is a separate agreement between said employer and applicant. Applicant further stipulates that regardless of any such agreement, applicant is responsible for the service charge under the conditions and terms of the contract.

11. It is understood that if any section of this contract is in conflict with the Louisiana Private Employment Service Law or the Rules and Regulations established thereunder, then the provisions of law, rule and regulations shall govern. The declaration that any section of this contract conflicts with the provisions of law shall not render the remainder of this contract null, and to that end the sections of this contract are declared severable.

12. The employment service agrees that it will not under any interpretation of this contract make more than one full service charge for any one placement.

13. The parties hereto acknowledge receipt of a copy of this contract; that they have read and understand all provisions thereof and agree to abide by its terms and conditions.

APPLICANT: _____
DATE: _____
BY: _____
PES REPRESENTATIVE: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services LR 28:514 (March 2002).

§125. PES Contract For Sitters/Nurses

A. PES Contract

1. This agreement entered into this date _____ between _____ hereinafter referred to as REGISTER and _____ hereinafter referred to as the applicant. Should I accept employment with an employer to which _____ has referred

me within twelve months from date of referral, I agree to pay a fee for professional services in accordance with the fee schedule listed in Paragraph 3.

2. This contract is valid for a period of one year from the above date or may be terminated by either party at any time by written notice, but not to the detriment of any legal rights or obligations incurred prior to such termination.

3. The applicant agrees to pay to _____ a fee of _____ percent of first year's gross earnings received for employment to which _____ has referred the applicant. Should case continue longer than one year, no additional fee will be charged.

4. Applicant hereby agrees to pay a penalty of 25 percent as attorney fees, plus court cost, on the earned fees due _____ should it become necessary to obtain counsel, a collection service, or resort to court action.

5. Applicant hereto acknowledges receipt of a copy of this contract; and understands the foregoing contract and agree to all of its terms and conditions.

APPLICANT

DATE

REPRESENTATIVE

DATE

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:515 (March 2002).

§127. Private Employment Services Contract for Applicant Escrow Accounts

A. Private Employment Services Contract

1. This contract is entered into by and between _____ hereinafter referred to as the applicant and (name of private employment service) hereinafter referred to as the employment service. Acceptance means agreement by applicant with employer to begin work.

2. Should applicant accept employment with an employer to which the employment service has referred him/her within one year from the date of this contract, the applicant agrees to pay a fee for professional services rendered in accordance with the schedule contained in Paragraph 4. This contract can be terminated by either party at any time by written notice, but not to the detriment of any legal rights or obligations incurred prior to such termination.

3. Applicant hereby agrees to execute a payroll check mailing agreement and a limited power of attorney authorizing the employment service to receive applicant's payroll checks, pay to itself the applicable placement fee and remit the remainder of wages to applicant as spelled out in the limited power of attorney.

4. The professional service placement fee shall be based on the applicant's projected daily wage rate, multiplied times _____ days.

5. Upon acceptance of a job, the employment service shall prepare an invoice which states the actual placement fee and place the invoice in the applicant's file. The placement fee shall be paid in strict accordance with terms of the limited power of attorney alluded to above and all files concerning the placement fee, limited power of attorney and mailing agreement shall be maintained in the applicant's file for a period of five years after the aforementioned power of attorney expires.

6. The estimates of applicant's daily wage rate found herein are for the purpose of computing service charge and in no way guarantee the procured employment for a year. The fee is earned by employment service when applicant accepts employment and is payable as follows:

a. No down payment is required! Payments will be 20 percent of gross pay of each payroll check until fee has been paid in its entirety.

Guarantee

If position employment service has obtained for applicant ends within 90 days from date of employment, regardless of reason, the service charge will be reduced to 20 percent of gross earnings of applicant. All refunds due shall be made promptly by employment service upon proper verification of earnings with employer, and in no case shall the delay exceed 14 days from applicant's request. If applicant accepts a position and then remains with his present employer, he agrees to pay 20 percent of the applicable fee for position accepted.

7. Applicant hereby stipulates and agrees to pay a penalty of 25 percent as attorney fees, plus court cost, on the earned fees due the employment service should it become necessary for the service to obtain counsel, a collection service, or resort to court action to collect same.

8. It is understood that if any section of this contract is in conflict with Louisiana Private Employment Service Law, or the rules and regulations established thereunder, then the provisions of law, rule and regulations shall govern. The declaration that any section of this contract conflicts with the provisions of law shall not render the remainder of this contract null, and to that end the sections of this contract are declared severable.

9. (Name of Private Employment Service) agrees that it will not under any interpretation of this contract make more than one service charge for any one placement. The parties hereto acknowledge receipt of a copy of this contract; they have read and understand all provisions thereof and agree to abide by its terms and conditions.

SIGNATURE OF APPLICANT

DATE

SOCIAL SECURITY #

SIGNATURE OF PES REPRESENTATIVE

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Labor, LR 7:630 (December 1981), repealed and repromulgated by the Department of Employment and Training, Office of Labor LR 17:357 (April 1991), amended by the Department of Labor, Office of Regulatory Services, LR 28:515 (March 2002).

§129. Severability Clause

A. These Rules and each of their provisions are hereby declared to be severable, one from another. If any provision or item of a Rule, or the application thereof, is held invalid, such invalidity shall not affect other provisions, items, or applications of the Rule which can be given effect without the invalid provision, item or application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:112.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Regulatory Services, LR 28:516 (March 2002).

Gary Forster
Secretary

0203#060

RULE

**Department of Natural Resources
Office of Coastal Restoration and Management**

**Coastal Use Permit Fee Schedule
(LAC 43:I.Chapter 7)**

The Department of Natural Resources, Office of Coastal Restoration and Management, hereby amends LAC 43:I.Chapter 7 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of R.S. 49:214.21 - 49:214.41.

Title 43

NATURAL RESOURCES

Part I. Office of the Secretary

Chapter 7. Coastal Management

Subchapter A. Definitions

§700. Definitions

Residential Coastal Use Any coastal use associated with the construction or modification of one single-family, duplex, or triplex residence or camp. It shall also include the construction or modification to any outbuilding, bulkhead, pier, or appurtenance on a lot on which there exists a single-family, duplex, or triplex residence or camp or on a water body which is immediately adjacent to such lot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:214.21 - 49:214.41.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 21:835 (August 1995), amended by the Office of Coastal Restoration and Management, LR 28:516 (March 2002).

Subchapter C. Coastal Use Permits and Mitigation

§723. Rules and Procedures for Coastal Use Permits

A. - C.2 ...

3. Fee Schedule

a. Effective May 1, 2002, the fee schedule of Coastal Use Permits of state concern will be divided into the two categories of residential uses and nonresidential uses.

b. The following schedule of fees will be charged for the processing and evaluation of Coastal Use Permits of state concern in the residential coastal use category.

i. A non-refundable fee shall accompany each application or request for determination submitted to the Coastal Management Division. The fee shall be \$20 for each application and \$20 for each request for determination.

ii. In addition to the non-refundable application fee, the following fees will be assessed according to the total volume of material disturbed for each permit issued.

(a). Proposed projects which involve fewer than 125 cubic yards of dredging or fill volume shall not be assessed additional fees.

(b). Proposed projects which involve 125 cubic yards of dredging and/or filling but less than 50,000 cubic yards shall be assessed at the rate of \$0.04 per cubic yard.

(c). Proposed projects which involve 50,000 cubic yards or more of dredging and/or filling shall be assessed the maximum volume disturbed fee of \$2,000.

c. The following schedule of fees will be charged for the processing and evaluation of Coastal Use Permits of state concern in the non-residential coastal use category.

i. A non-refundable fee shall accompany each application or request for determination submitted to the Coastal Management Division. The fee shall be \$100 for each application and \$100 for each request for determination.

ii. In addition to the non-refundable application fee, the following fees will be assessed according to the total volume of material disturbed for each permit issued.

(a). Proposed projects which involve more than 0 and fewer than 500 cubic yards of dredging or fill volume shall be assessed a fee of \$25.

(b). Proposed projects which involve 501 cubic yards of dredging and/or filling but less than 100,001 cubic yards shall be assessed at the rate of \$0.05 per cubic yard.

(c). Proposed projects which involve 100,001 cubic yards or more of dredging and/or filling shall be assessed the maximum volume disturbed fee of \$5,000.

d. If the appropriate fees are not included along with the coastal use permit application, the application will be considered incomplete, and returned to the applicant. The application fee and additional fees, if any, should be paid separately.

e. A coastal use permit application which has been returned to the applicant by the Coastal Management Division or withdrawn by the applicant and is subsequently resubmitted shall be subject to an additional processing fee which will consist of an application fee and a permit fee if the application has undergone substantial revisions, pursuant to Subsection D.1.a of this Section.

f. Nothing contained in Paragraph 3.a-e shall affect the right of local government and parishes with approved programs to assess fees for processing and evaluating coastal use permit applications.

g. In addition to the fees identified at §723.C.3.a, the following fees related to compensatory mitigation shall be charged when appropriate pursuant to §724:

i. compensatory mitigation processing fee (§724.D);

ii. mitigation bank initial evaluation fee, mitigation bank habitat evaluation fee, mitigation bank establishment fee, and mitigation bank periodic review fee (§724.F.3);

iii. advanced mitigation project initial evaluation fee, advanced mitigation project establishment fee, advanced mitigation post-implementation habitat evaluation fee, advanced mitigation periodic review fee (§724.G.5);

iv. compensatory mitigation variance request fee (§724.K.2.h).

C.4. - G.4.b ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:214.21 - 49:214.41.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 6:493 (August 1980), amended LR 8:519 (October 1982), amended by the Office of Coastal Restoration and Management, LR 16:625 (July 1990), amended by the Office of the Secretary, LR 21:835 (August 1995), amended by the Office of Coastal Restoration and Management, LR 28:516 (March 2002).

James R. Hanchey
Assistant Secretary

0203#069

RULE

**Department of Revenue
Tax Commission**

Ad Valorem Tax
(LAC 61:V.309, 703, 907, 1103, 1503, 2503,
2705, 2707, 3103, 3301, and 3501)

In accordance with provisions of the Administrative Procedure Act (R.S. 49:950, et seq.), and in compliance with statutory law administered by this agency as set forth in R.S. 47:1837, the Tax Commission has amended and/or repealed Sections of the Louisiana Tax Commission Real/Personal Property Rules and Regulations for use in the 2002 (2003 Orleans Parish) tax year.

This Rule is necessary in order for ad valorem tax assessment tables to be disseminated to property owners and local tax assessors no later than the statutory valuation date of record of January 1, 2002. Cost indexes required to finalize these assessment tables are not available to this office until late October, 2001. The effective date of this Rule is January 1, 2002.

Title 61

**REVENUE AND TAXATION
Part V. Ad Valorem Taxation**

Chapter 3. Real and Personal Property

§309. Tax Commission Miscellaneous Forms

A. - E. ...

F. TC Form 65, Application For Special Assessment Level, should be used by certain eligible persons, 65 years of age or older, to apply annually for the special assessment level in accordance with R.S. 47:1712.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837, R.S. 47:1712 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 21:186 (February 1995), amended LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998), LR 27:424 (March 2001), LR 28:517 (March 2002).

Chapter 7. Watercraft
§703. Tables C Watercraft

A. Floating Equipment C Motor Vessels

Floating Equipment C Motor Vessels				
Cost Index (Average)		Average Economic Life 12 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2001	1.001	1	94	.94
2000	1.009	2	87	.88
1999	1.028	3	80	.82
1998	1.031	4	73	.75
1997	1.040	5	66	.69
1996	1.056	6	58	.61
1995	1.073	7	50	.54
1994	1.111	8	43	.48
1993	1.142	9	36	.41
1992	1.165	10	29	.34
1991	1.179	11	24	.28
1990	1.202	12	22	.26
1989	1.235	13	20	.25

B. Floating Equipment C Barges (Nonmotorized)

Floating Equipment C Barges (Nonmotorized)				
Cost Index (Average)		Average Economic Life 20 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2001	1.001	1	97	.97
2000	1.009	2	93	.94
1999	1.028	3	90	.93
1998	1.031	4	86	.89
1997	1.040	5	82	.85
1996	1.056	6	78	.82
1995	1.073	7	74	.79
1994	1.111	8	70	.78
1993	1.142	9	65	.74
1992	1.165	10	60	.70
1991	1.179	11	55	.65
1990	1.202	12	50	.60
1989	1.235	13	45	.56
1988	1.301	14	40	.52
1987	1.356	15	35	.47
1986	1.376	16	31	.43
1985	1.389	17	27	.38
1984	1.410	18	24	.34
1983	1.448	19	22	.32
1982	1.474	20	21	.31
1981	1.543	21	20	.31

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:924 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:204 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998), LR 25:312 (February 1999), LR 26:506 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002).

Chapter 9. Oil and Gas Properties
§907. Tables - Oil and Gas

A. ...

1. Oil, Gas and Associated Wells; Region 1 - North Louisiana

Table 907.A.1 Oil, Gas and Associated Wells Region 1 C North Louisiana				
Producing Depths	Cost - New by Depth, per Foot		15% of Cost - New by Depth, per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0 - 1,249 ft.	8.30	19.16	1.25	2.87
1,250 - 2,499 ft.	9.93	12.82	1.49	1.92
2,500 - 3,749 ft.	13.66	13.15	2.05	1.97
3,750 - 4,999 ft.	15.03	15.60	2.25	2.34
5,000 - 7,499 ft.	20.62	20.77	3.09	3.12
7,500 - 9,999 ft.	24.52	28.89	3.68	4.33
10,000 -12,499 ft.	36.40	35.32	5.46	5.30
12,500 -Deeper ft.	N/A	68.76	N/A	10.31

2. Oil, Gas and Associated Wells; Region 2 - South Louisiana

Table 907.A.2 Oil, Gas and Associated Wells Region 2 - South Louisiana				
Producing Depths	Cost - New by Depth, per Foot		15% of Cost - New by Depth, per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0 - 1,249 ft.	14.87	76.13	2.23	11.42
1,250 - 2,499 ft.	66.57	75.74	9.99	11.36
2,500 - 3,749 ft.	61.04	67.65	9.16	10.15
3,750 - 4,999 ft.	39.00	50.09	5.85	7.51
5,000 - 7,499 ft.	52.94	48.12	7.94	7.22
7,500 - 9,999 ft.	57.84	56.65	8.68	8.50
10,000 -12,499 ft.	59.21	69.07	8.88	10.36
12,500 -14,999 ft.	69.92	87.72	10.49	13.16
15,000 -17,499 ft.	96.74	113.55	14.51	17.03
17,500 -19,999 ft.	90.70	143.69	13.61	21.55
20,000 -Deeper ft.	104.69	197.77	15.70	29.67

3. Oil, Gas and Associated Wells; Region 3 - Offshore State Waters

Table 907.A.3 Oil, Gas and Associated Wells Region 3 - Offshore State Waters*				
Producing Depths	Cost - New by Depth, per Foot		15% of Cost - New by Depth, per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0 - 1,249 ft.	N/A	N/A	N/A	N/A
1,250 - 2,499 ft.	317.00	433.06	47.55	64.96
2,500 - 3,749 ft.	238.49	319.29	35.77	47.89
3,750 - 4,999 ft.	248.15	169.87	37.22	25.48
5,000 - 7,499 ft.	206.16	162.59	30.92	24.39
7,500 - 9,999 ft.	188.59	156.63	28.29	23.49
10,000 -12,499 ft.	182.24	161.96	27.34	24.29
12,500 -14,999 ft.	165.39	174.21	24.81	26.13
15,000 -17,499 ft.	161.48	215.27	24.22	32.29
17,500 -Deeper ft.	462.60	311.06	69.39	46.66

A.4. - B.1. ...

2. Serial Number to Percent Good Conversion Chart

Table 907.B.2 Serial Number to Percent Good Conversion Chart			
Year	Beginning Serial Number	Ending Serial Number	25 Year Life Percent Good
2001	225352	Higher	96
2000	223899	225351	92
1999	222882	223898	88
1998	221596	222881	84
1997	220034	221595	80
1996	218653	220033	76
1995	217588	218652	72
1994	216475	217587	68
1993	215326	216474	64
1992	214190	215325	60
1991	212881	214189	56
1990	211174	212880	52
1989	209484	211173	48
1988	207633	209483	44
1987	205211	207632	40
1986	202933	205210	36
1985	197563	202932	32
1984	Lower	197562	30*
VAR.	900000	Higher	50

* Reflects residual or floor rate.

B.3 - 6 [NOTE] ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:480 (March 1998), LR 25:313 (February 1999), LR 26:507 (March 2000), IR 27:425 (March 2001), LR 28:518 (March 2002).

Chapter 11. Drilling Rigs and Related Equipment
§1103. Drilling Rigs and Related Equipment Tables

A.1. Land Rigs

Table 1103.A Land Rigs		
Depth "0" To 7,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
3,000	\$316,600	\$47,500
4,000	\$374,000	\$56,100
5,000	\$442,700	\$66,400
6,000	\$511,400	\$76,700
7,000	\$589,900	\$88,500
Depth 8,000 To 10,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
8,000	\$671,600	\$100,700
9,000	\$789,400	\$118,400
10,000	\$1,015,200	\$152,300

Depth 11,000 To 15,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
11,000	\$1,240,900	\$186,100
12,000	\$1,339,700	\$201,000
13,000	\$1,396,100	\$209,400
14,000	\$1,472,400	\$220,900
15,000	\$1,608,200	\$241,200
Depth 16,000 To 20,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
16,000	\$1,743,900	\$261,600
17,000	\$2,026,700	\$304,000
18,000	\$2,358,500	\$353,800
19,000	\$2,651,200	\$397,700
20,000	\$2,827,000	\$424,100
Depth 21,000 + Feet		
Depth (Ft.)	Fair Market Value	Assessment
21,000	\$3,002,800	\$450,400
25,000 +	\$3,705,800	\$555,900

A.2. - C. ...

NOTE: The fair market values and assessed values indicated by these tables are based on the current market (sales) appraisal approach and not the cost approach.

D. Well Service Rigs - Land Only (Good Condition)

Table 1103.D Well Service Rigs Land Only (Good Condition)				
Class	Mast	Engine	Fair Market Value	Assessment
I	72' X 125M# 75' X 150M#	6V71	127,750	19,200
II	96' X 150M# 96' X 180M# 96' X 185M# 96' X 205M# 96' X 210M# 96' X 212M# 96' X 215M#	8V71	160,125	24,000
III	96' X 240M# 96' X 250M# 96' X 260M# 102' X 215M#	8V92	192,500	28,900
IV	102' X 224M# 102' X 250M# 103' X 225M# 103' X 250M# 104' X 250M# 105' X 225M# 105' X 250M#	12V71	210,875	31,600
V	105' X 280M# 106' X 250M# 108' X 250M# 108' X 260M# 108' X 268M# 108' X 270M# 108' X 300M#	12V71 12V92	269,150	40,400
VI	110' X 250M# 110' X 275M# 112' X 300M# 112' X 350M#	12V71 (2) 8V92	311,500	46,700
VII	117' X 215M#	(2) 8V92 (2) 12V71	390,775	58,600

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:939 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:487 (March 1998), LR 25:315 (February 1999), LR 26:508 (March 2000), LR 27:426 (March 2001), LR 28:519 (March 2002).

Chapter 15. Aircraft

§1503. Aircraft (Including Helicopters) Table

A. Aircraft

Table 1503 Aircraft (Including Helicopters)				
Cost Index (Average)		Average Economic Life (10 Years)		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2001	1.001	1	92	.92
2000	1.009	2	84	.85
1999	1.028	3	76	.78
1998	1.031	4	67	.69
1997	1.040	5	58	.60
1996	1.056	6	49	.52
1995	1.073	7	39	.42
1994	1.111	8	30	.33
1993	1.142	9	24	.27
1992	1.165	10	21	.24
1991	1.179	11	20	.24

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:943 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:206 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002).

Chapter 25. General Business Assets

§2503. Tables Ascertaining Economic Lives, Percent Good and Composite Multipliers of Business and Industrial Personal Property

A. ...

Table 2503.A Suggested Guidelines For Ascertainning Economic Lives of Business and Industrial Personal Property	
Business Activity/Type of Equipment	Average Economic Life in Years

Photography Equipment	10
One Hour Photoprocessing Equipment	8

B. Cost Indices

Table 2503.B Cost Indices			
Year	Age	National Average 1926 = 100	January 1, 2001 = 100*
2001	1	1093.4	1.001
2000	2	1084.3	1.009
1999	3	1065.0	1.028
1998	4	1061.8	1.031
1997	5	1052.7	1.040
1996	6	1036.0	1.056
1995	7	1020.4	1.073
1994	8	985.0	1.111
1993	9	958.0	1.142
1992	10	939.8	1.165
1991	11	928.5	1.179
1990	12	910.2	1.202
1989	13	886.5	1.235
1988	14	841.4	1.301
1987	15	806.9	1.356
1986	16	795.4	1.376
1985	17	787.9	1.389
1984	18	776.4	1.410
1983	19	755.8	1.448
1982	20	742.4	1.474
1981	21	709.2	1.543
1980	22	642.8	1.703
1979	23	584.4	1.873
1978	24	534.7	2.047
1977	25	497.1	2.202
1976	26	472.1	2.318

*Reappraisal Date: January 1, 2001 - 1094.5 (Base Year)

C.1. - C.4. ...

D. Composite Multipliers

Table 2503.D Composite Multipliers 2002 (2003 Orleans Parish)								
Age	3 Yr	5 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr
1	.70	.85	.90	.92	.94	.95	.97	.98
2	.49	.70	.80	.85	.88	.91	.94	.96
3	.35	.53	.69	.78	.82	.87	.93	.96
4	.21	.35	.56	.69	.75	.81	.89	.93
5		.24	.45	.60	.69	.76	.85	.90
6		.21	.35	.52	.61	.72	.82	.89
7			.28	.42	.54	.67	.79	.87
8			.24	.33	.48	.61	.78	.87
9			.23	.27	.41	.56	.74	.86
10				.24	.34	.50	.70	.83
11				.24	.28	.44	.65	.80
12					.26	.37	.60	.77
13					.25	.32	.56	.74
14						.30	.52	.73
15						.28	.47	.71
16						.28	.43	.66
17							.38	.61
18							.34	.55
19							.32	.49
20							.31	.44
21							.31	.40
22								.39
23								.39
24								.41
25								.44
26								.46

Data sources for tables are:

1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 10:944 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:207 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:317 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002).

Chapter 27. Guidelines For Application, Classification and Assessment of Land Eligible To Be Assessed At Use Value

§2705. Classification

A. - B. ...

Beauregard	Jefferson Davis
Bienville	Vernon
East Feliciana	West Feliciana

C. ...

AUTHORITY NOTE: Promulgated in accordance with LSA - Constitution of 1974, Article VII, ' 18, R.S. 47:2302, R.S. 47:2303 and R.S. 47:2304.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 3:289 (June 1977), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 15:1097 (December 1989), LR 19:212 (February 1993), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:208 (February 1997), amended by the Department of Revenue, Tax Commission, LR 25:318 (February 1999), LR 26:510 (March 2000), LR 27:428 (March 2001), LR 28:521 (March 2002).

§2707. Map Index Table

Table 2707 Map Index Listing of General Soil Maps and Modern Soil Surveys for the State of Louisiana Published by U. S. Dept. of Agriculture, Natural Resources Conservation Service in Cooperation with Louisiana Agricultural Experiment Station			
Parish	Date (General)	Map No. (General)	Date Published or Status (Modern)
*** [See Prior Text in Acadia - Ouachita]			
Plaquemines	Dec., 1969	4-R-28742-A	March, 2001
*** [See Prior Text in Pointe Coupee - Winn]			

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2301 and R.S. 47:2308.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 3:290 (June 1977), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:946 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:208 (February 1997), amended by the Department of Revenue, Tax Commission, LR 25:319 (February 1999), LR 26:511 (March 2000), LR 27:428 (March 2001), LR 28:521 (March 2002).

Chapter 31. Public Exposure of Assessments; Appeals §3103. Appeals to the Louisiana Tax Commission

A. - K. ...

L. The commission shall take official notice without further identification of the contents of the original records and documents in possession of the commission when duly certified copies thereof are offered into evidence and made a part of the record. Evidence offered at the Board of Review is not forwarded to the Tax Commission and must be submitted by the assessor/taxpayer in accordance with filing procedures for written appeals. The commission may receive other documentary evidence in the form of copies or excerpts or that which is incorporated by reference.

M. - Form 3103.B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837, R.S. 47:1989 and R.S. 47:1992.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:947 (November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 24:492 (March 1998), LR 25:319 (February 1999), LR 26:512 (March 2000), LR 28:521 (March 2002).

Chapter 33. Financial Institutions

§3301. Guidelines For Ascertaining the Fair Market Value of Financial Institutions

A. - D.1. ...

2. The calculated price earnings ratio, to be used to compute bank shareholders assessments, shall not change, up or down, by more than 1.5 points from the ratio used in the previous year.

E. - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1967, R.S. 47:1968, R.S. 47:1969, R.S. 6:942, R.S. 6:943 and R.S. 6:944.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 13:249 (April 1987), amended LR 16:1064 (December 1990), LR 20:198 (February 1994), LR 28:521 (March 2002).

Chapter 35. Miscellaneous

§3501. Service Fees Tax Commission

A. The Tax Commission is authorized by R.S. 47:1838 to levy and collect fees on an interim basis for the period beginning on July 1, 2001, and ending on June 30, 2003, in connection with services performed by the Tax Commission as follows:

A.1. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1835 and R.S. 47:1838.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 19:212 (February 1993), amended LR 20:198 (February 1994), amended by the Department of Revenue, Tax Commission, LR 24:494 (March 1998), LR 25:320 (February 1999), LR 26:513 (March 2000), LR 28:521 (March 2002).

Malcolm B. Price, Jr.
Chairman

0203#058

RULE

**Department of Social Services
Office of Family Support**

FITAP Reporting Requirements (LAC 67:III.1257)

The Department of Social Services, Office of Family Support, has amended the *Louisiana Administrative Code*, Title 67, Part III, Subpart 2, Family Independence Temporary Assistance Program (FITAP).

Pursuant to the authority granted to the department by the Louisiana Temporary Assistance to Needy Families (TANF) Block Grant, the agency aligned the FITAP regulation for reporting income changes with the federal Food Stamp Program regulation which requires the household to report only certain increases in household members' income.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 2. Family Independence Temporary Assistance Program (FITAP)

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§1257. Reporting Requirements

A. A FITAP household shall report any change that affects eligibility or the amount of monthly benefits. Changes in income must be reported if the household's gross monthly income changes by more than \$100 in earned income or \$25 in unearned income.

B. Changes shall be reported within 10 days of the knowledge of the change unless the FITAP household is included in a food stamp semi-annual reporting household. The FITAP household is then subject to the semi-annual household reporting requirements in accordance with §2013.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:522 (March 2002).

Gwendolyn P. Hamilton
Secretary

0203#061

RULE

**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 has amended 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 28:522 (March 2002).

§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 28:522 (March 2002).

§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 28:522 (March 2002).

§1207. Duties of the DOTD Weights and Standards 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 28:522 (March 2002).

§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 28:523 (March 2002).

§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 28:523 (March 2002).

§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 28:523 (March 2002).

§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.

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 28:523 (March 2002).

§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 28:523 (March 2002).

§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 28:523 (March 2002).

Kam K. Movassaghi, P.E., Ph.D
Secretary

0203#066

RULE

**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 establish an oyster harvest area grid system. This is being done under the authority of R.S. 56:430.1.

Title 76

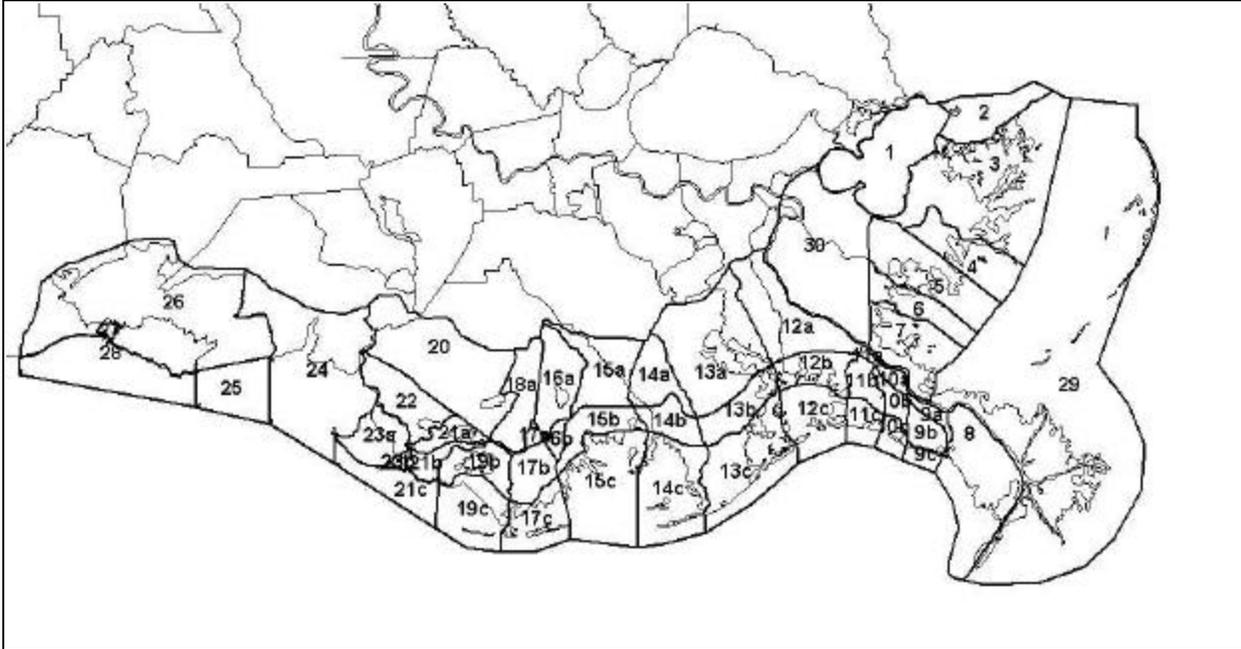
WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 5. Oysters

§519. Establishment of an Oyster Harvest Area Grid System

A. For the purpose of submission of oyster leaseholder production information, as required in R.S. 56:430.1, the oyster harvest area grid system is established as those grid areas detailed on the map which is attached hereto and made a part hereof.



AUTHORITY NOTE: Promulgated in accordance with R.S. 56:430.1.B.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 28:524 (March 2002).

0203#079

James H. Jenkins, Jr.
Secretary