

Notices of Intent

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School Administrators
C Minimum Number of Instructional School Days (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 741, *Louisiana Handbook for School Administrators*, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). R.S. 17:154.1 changed the minimum number of instructional days in the school year from 175 to 177, keeping the existing total school calendar of 182 days. The legislation switched two days generally used for professional development, planning or emergencies to instructional days. The changes in State Board of Elementary and Secondary Education policy are required as a result of enacted state legislation.

Title 28 EDUCATION

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

§901. School Approval Standards and Regulations

A. Bulletin 741

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education in LR 27:694 and 695 (May 2001), LR 27:815 (June 2001), LR 28:

Minimum Session/Instructional Day

1.009.16 Each school system shall adopt a calendar for a minimum session of 182 days, of which at least 177 days shall be scheduled to provide the required instructional time.

Refer to R.S. 17:154.1

Effective with the 2001-02 school year, the length of the school year shall consist of 182 days of which no fewer than 177 days, or the equivalent, shall be used to provide instruction to students; two days shall be for staff development; the remaining days may be used for emergencies and/or other instructional activities.

If a daily schedule must be abbreviated, the schedule must be abbreviated in such a manner to ensure that all classes are taught during the partial day.

Each school system may include in its calendar a provision for dismissal of senior students prior to the end of the school year. This provision is not to exceed 10 days of instructional time.

Each school system may authorize some or all of its schools to modify the total number of instructional minutes per day and instructional days per year provided that 63,720 minutes of instructional time per year are met.

General election day shall be designated by each school system as a holiday every four years for the presidential election.

1.009.18 Each instance of a school system's not meeting the minimum number of 177 days of required instructional time or the equivalent (63,720 minutes per year) shall be examined by the State Department of Education (SDE) and reported by the Department/System to the State Board of Elementary and Secondary Education (SBESE).

Operations Policies

1.010.02 Each school system shall have policies and procedures that address, but are not limited to, the following items:

- setting the number of school days, length of the school day, and other necessary guidelines for the operation of the schools;
- providing special educational and related services to exceptional students in accordance with the Individualized Education Program (IEP) for no fewer than 177 days or the equivalent during the normal 182-day school cycle.

Length of School Day Requirements

2.037.12 The minimum instructional day for a full-day kindergarten program shall be 360 minutes.

Each school system may authorize some or all of its schools to modify the total number of instructional minutes per day and instructional days per year provided that 63,720 minutes of instructional time per year are met.

Refer to R.S. 17:154.1.

2.037.13 For grades K-12, the minimum school day shall include 360 minutes of instructional time, exclusive of recess, lunch, and planning periods.

Each school system may authorize some or all of its schools to modify the total number of instructional minutes per day and instructional days per year provided that 63,720 minutes of instructional time per year are met.

Local systems have the option to make the determination regarding the length of the school day for high school seniors/

Refer to R.S. 17:154.1.

Extended School Year Program for Eligible Exceptional Students

1.119.00 School systems shall provide eligible exceptional students special educational and related services in excess of 177 school days, or the equivalent during the normal 182 day school cycle when stated in the Individualized Education Program (IEP).

Extended School Year Program for Eligible Exceptional Students

2.119.00 Extended school year programs shall be provided to eligible exceptional students when stated in the Individualized Education Program (IEP).

2.119.01 The determination concerning the need or lack of need for an educational program beyond 177 school days, or the equivalent, during the normal 182 day school cycle made by the participants in an Individualized Education Program (IEP) meeting shall be reviewed annually to ascertain any changes in the student's needs.

2.119.02 The Individualized Education Program shall include special educational and related services in excess of 177 school days or the equivalent during the normal 182 day school cycle when the multi-source data indicate that the student's exceptionally is of such severity that, without instruction in excess of 182 days, a significant loss of educational skills shall occur.

2.119.03 The type and length of the extended program shall be determined on an individual basis.

A program ranging from 182 up to 240 school days shall be available, when appropriate.

Family Impact Statement

1. Will the Proposed Rule affect the Stability of the Family? No.
2. Will the Proposed Rule affect the Authority and Rights of Parents Regarding the Education and Supervision of Their Children? No.
3. Will the Proposed Rule affect the Functioning of the Family? No.
4. Will the Proposed Rule affect Family Earnings and Family Budget? No.
5. Will the Proposed Rule affect the Behavior and Personal Responsibility of Children?
6. Is the Family or a Local Government able to perform the Function as Contained in the Proposed Rule? Yes.

Interested persons may submit written comments until 4:30 p.m., September 8, 2002, to Nina A. Ford, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Minimum Number of Instructional School Days

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

No state cost will be incurred to implement the change in the number of instructional days. Additional costs relate to local education agencies only. Estimated costs are as follows: FY2001-2002: \$6,658,972, FY2002-2003: \$6,984,093 and FY2003-2004: \$7,030,251.

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

It is estimated that there is no impact on revenue collections at the state or local level.

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

There is an estimated cost to the local education agencies of \$6,658,972 in FY2001-2002 to convert two days from non-instructional to instructional within the teacher contract year. The cost is related to providing services to students for these two additional instructional days. The estimated cost is based on actual FY2000-2001 AFR data as provided by the 66 school systems. Selected expenditures in the areas of transportation, food service and operation and maintenance were calculated recognizing that students will have to be transported and provided meals for the two additional instructional days. In addition, increased costs may be incurred for operation of buildings and facilities on these days. An inflation factor of 2.75 percent, consistent with the growth built into the MFP formula, was applied to the selected FY2001-2002 expenditures to arrive at the FY2001-2002 cost of \$6,658,972. The same inflation factor was applied to the out-years for estimated costs of \$6,842,092 in FY2002-2003 and \$7,030,251 in FY2003-2004. This is a conservative estimate but may be higher or lower based on the unique circumstances of individual local education agencies.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is estimated that there will be no impact on competition or employment as teachers are already under contract to the school systems for a school year.

Marlyn Langley
Deputy Superintendent
Management & Finance
0207#025

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

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

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). Act 478 of the 1997 Regular Legislative Session called for the development of an Accountability System for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The State's Accountability System is an evolving system with different components. The proposed changes more clearly explain and refine the existing policy as follows: 1) State assessments administered to students with disabilities.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education LR 27:694 (May 2001); LR 27:695 (May 2001); LR 27:815 (June 2001), LR 28

The Louisiana School and District Accountability System School Performance Scores

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

For the first accountability cycle, the baseline SPS shall be calculated using CRT and NRT scores from spring 1999 and the prior year's attendance and dropout data. The Growth SPS shall be calculated using CRT and NRT scores from spring 2001 and the prior year's attendance and dropout data.

During the fall of 2001 for K-8 schools, each school shall receive two School Performance Scores as follows:

- a Growth SPS will be calculated using 2001 English language arts/Math LEAP 21 test scores, 2001 Iowa test scores, and 2000 attendance and dropout data.
- a new Baseline SPS will be calculated using the average of the 1999-2000 and 2000-2001 English language arts/Math/Science/Social Studies LEAP 21 test scores, the average of the 1999-2000 and 2000-2001 Iowa test scores and the average of the 1999 and 2000 attendance and dropout data.

The Growth SPS shall be used to determine Growth Labels and to calculate rewards. The new Baseline shall be used to determine Performance Labels and to calculate the next cycle's Growth Target. The higher SPS (Growth or Baseline) shall be used to determine movement in Corrective Actions. (See Standard 2.006.09)

Beginning the second cycle, every year of student data shall be used as part of a school's SPS. Calculations of the SPS shall use the following:

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

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

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

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

- a score for regular education students, including gifted, talented, and Section 504 students.
- a score including regular education students AND students with disabilities eligible to participate in the CRT and/or NRT tests.

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

Formula for Calculating an SPS [K-6]

The SPS for a sample school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example, [(66.0 * 60%) + (75.0 * 30%) + (50.0 * 10%)] = 67.1

Indicator	Index Value	Weight	Indicator Score
CRT	66.0	60%	39.6
NRT	75.0	30%	22.5
Attendance	50.0	10%	5.0
Dropout	N/A	0%	0
			SPS = 67.1

Criterion

Referenced Tests (CRT) Index Calculations [K-8]

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

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

Formula for Calculating a CRT Index for a School [K-8]

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

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

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

If, during spring testing, a repeating fourth grade student or Option I 8th grade student receives a score of Approaching Basic or above on a LEAP 21 test of mathematics, English language arts, science or social studies for which he/she received a score of Unsatisfactory the previous spring, the retaining school shall receive 50 incentive points per subject in its accountability index. A student may earn a maximum of 200 incentive points for his/her school. (No incentive points will be awarded for passing parts of tests in the summer school of the year they first failed in spring testing.)

Transition Years [K-8]

To accommodate the phase-in of the Social Studies and Science components of the CRT for Elementary and Secondary Accountability Cycles, the State Department of Education shall use following LEAP Test components when calculating the School Performance Scores (SPS) for K-8:

Cycle	Timelines/ School Years	Baseline SPS Data	Growth SPS Data	LEAP-CRT Index Components							
				Grade 4				Grade 8			
				ELA	Math	Science	Social Studies	ELA	Math	Science	Social Studies
1	1998-1999	2000-2001		✓	✓			✓	✓		
2	1999-2000 & 2000-2001	2001-2002 & 2002-2003		✓	✓	✓	✓	✓	✓	✓	✓
3	2001-2002 & 2002-2003	2003-2004 & 2004-2005		✓	✓	✓	✓	✓	✓	✓	✓

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

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

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

NRT Formulas Relating Student Standard Scores to NRT Index [K-8]

Where the 10-year and 20-year goals are the 55th and 75th percentile ranks, respectively, and where SS = a student's standard score, then the index for that student is calculated as follows:

Grade 3:	Index 3 rd grade = (4.167 * SS) - 679.2 SS = (Index 3rd grade + 679.2)/4.167
Grade 5:	Index 5 th grade = (2.941 * SS) - 544.1 SS = (Index 5th grade + 544.1)/2.941
Grade 6:	Index 6 th grade = (2.500 * SS) - 477.5 SS = (Index 6th grade + 477.5)/2.500
Grade 7:	Index 7 th grade = (2.174*SS) - 428.3 SS = (Index 7th grade + 428.3)/2.174

- Formula for Calculating a School's NRT Index [K-8]**
1. Calculate the index for each student, using the grade-appropriate formula relating the Standard Score to NRT Index. (NOTE: For accountability purposes, a student not taking the test and not exempted will be assigned a zero NRT index.)
 2. Sum the total number of NRT Index points for all grades in the school.
 3. Divide the sum of the NRT Index points by the total number of students eligible to be tested plus the number of students not exempted.
 4. Zero shall be the lowest NRT Index score reported for School Performance Score calculations.

Attendance Index Calculations [K-8]

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

<i>Attendance Goals</i>		
	10-Year Goal	20-Year Goal
Grades K-8	95%	98%

Attendance Index Formula

Grades K-8
Indicator (ATT K-8) = (16.667 * ATT) - 1483.4

Where ATT is the attendance percentage, the Index Formula uses the definition of attendance established by the Louisiana Department of Education.

Lowest Attendance Index Score

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

Dropout Index Calculations

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

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

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

Dropout Index Formulas

Non-Dropout Rate (NDO) = 100 - Dropout Rate (DO)
(expressed as a percentage)

Grades 7 & 8	Dropout Index (7-8) = Indicator (DO Gr 7-8) = (25 * NDO) - 2300.0 NDO = (Indicator DO Gr 7-8 + 2300.0) /25
--------------	---

Lowest Dropout Index Score

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

School Performance Scores for 9-12

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

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

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

*Indicates use of prior year data for these indexes.
¹The SPS at the beginning of cycle 2 shall be calculated using the average of the 2002 and 2003 NRT scores, the average of the 2002 and 2003 CRT scores, and the average of the 2001 and 2002 attendance and dropout data. The SPS for the beginning of cycle 2 shall be compared to the 2001 baseline SPS for determining growth.

Transition Years [Combination Schools]

Combination Schools are schools that contain a 10th and/or 11th grade and that also contain a 4th and/or 8th grade.

To accommodate the phase-in of Social Studies and Science components of the CRT tests for Secondary Accountability Cycles, the Department shall use the following LEAP Test components when calculating the SPS for combination schools.

Cycle 1 Baseline SPS for Combination Schools	Cycle 2 SPS for Combination Schools
K-8 portion of school: 2 years averaged (2000 and 2001) of all CRT data	K-8 portion of school: 2 years averaged (2002 and 2003) of all CRT data.
9-12 portion of school: 1 year baseline data (2001) without grade 11 CRT	9-12 portion of school: 2 years averaged (2002 and 2003) of all CRT data.

Formula for Calculating an SPS - Accountability Cycle 1 (2001) for 9-12 and Combination Schools.

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

$$SPS = (.60 * \text{Grade 10 CRT Adjusted Achievement Index}) + (.30 * \text{NRT Adjusted Achievement Index}) + (.05 * \text{Dropout Index}) + (.05 * \text{Attendance Index})$$

All intermediate results and the final result shall be rounded to the nearest tenth.

The following is an example of how this calculation shall be made:

$$[(.60 * 66.0) + (.30 * 75.0) + (.05 * 50.0) + (.05 * 87.5)] = 69.0.$$

Indicator	Index Value	Weight	Indicator Score
CRT-Grade 10	66.0	60%	39.6
NRT	75.0	30%	22.5
Attendance Index	50.0	5%	2.5
Dropout Index	87.5	5%	4.4
SPS			69.0

Formula for Calculating an SPS - Accountability Cycle 2 (2003 and beyond) for 9-12 and Combination Schools.

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

$$SPS = (.30 * \text{Grade 10 CRT Adjusted Achievement Index}) + (.30 * \text{Grade 11 CRT Adjusted Achievement Index}) + (.30 * \text{NRT Index}) + (.05 * \text{Dropout Index}) + (.05 * \text{Attendance Index})$$

In this example,

$$[(.30 * 66.0) + (.30 * 60.0) + (.30 * 75.0) + (.05 * 50.0) + (.05 * 87.5)] = 67.2.$$

Indicator	Index Value	Weight	Indicator Score
CRT-Grade 10	66.0	30%	19.8
CRT-Grade 11	60.0	30%	18.0
NRT	75.0	30%	22.5
Attendance Index	50.0	5%	2.5
Dropout Index	87.5	5%	4.4
SPS			67.2

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

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

NRT Goals and Equivalent Standard Scores for Grade 9

Goal	Percentile Rank	Grade 9 Composite Standard Score
10-Year Goal	55 th	263
20-Year Goal	75 th	287

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

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

$$\text{Index 9}^{\text{th}} \text{ grade} = (2.083 * SS) - 447.8$$

$$SS = (\text{Index 9}^{\text{th}} \text{ grade} + 447.8) / 2.083$$

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

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

If, during spring testing, a student receives a score of Approaching Basic or above on a LEAP 21 test of mathematics or English language arts for which he/she received a score of Unsatisfactory the previous spring, the high school shall receive incentive points in its accountability index. For the 2000-2001 school year, a student may earn a maximum of 100 incentive points in his/her school's accountability index. Beginning cycle 2 (2001-2002), a student may earn a maximum of 50 incentive points for his/her school. (See High Stakes Testing Policy.)

Only with the exception of grade 8 Option II students, all Louisiana students in grades three through eleven will participate in only one of the following state assessments on an annual basis:

- LEAP 21 or,
- GEE 21 or,
- Iowa On-Level or,
- LEAP Alternate Assessment B (LAA-B) or,
- LEAP Alternate Assessment (LAA).

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

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

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

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

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

The formula for calculating the NRT and CRT Adjusted Achievement Index for a High School is:

$$\text{NRT Adjusted Achievement Index} = \text{Raw Achievement Index} * (1 - \text{DO Gr } 9 + .07)$$

$$\text{CRT Adjusted Achievement Index (Gr 10)} = \text{Raw Achievement Index} * (1 - \text{DO Gr } 9 + .07) * (1 - \text{DO Gr } 10 + .07)$$

$$\text{CRT Adjusted Achievement Index (Gr 11)} = \text{Raw Achievement Index} * (1 - \text{DO Gr } 9 + .07) * (1 - \text{DO Gr } 10 + .07) * (1 - \text{DO Gr } 11 + .07)$$

Example 1 – Grade 9:

- Before beginning grade 9, a class has 50 students; by the end of September, 45 remain in the class. The grade 9 dropout rate is $(5/50) = .100$.
- The number of points earned on the NRT is 5000.
- The raw achievement index is $5000/45 = 111.1$.
- The adjusted achievement index is $111.1 \times (1 - .100 + .07) = 107.8$.

Example 2 – Grade 10:

- Another 5 students dropout before October of grade 10. The grade 10 dropout rate is $5/45 = .111$.
- The 40 students remaining in the class earn 10,000 points on the two CRT tests. The raw achievement index is $10,000/(40 * 2) = 125.0$.
- The adjusted achievement index is $125.0 \times (1 - .100 + .07) \times (1 - .111 + .07) = 116.3$.

Attendance Index Calculations for Grades 9-12

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

Attendance Goals

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

Attendance Index Formula for Grades 9-12

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

$$\text{Indicator (ATT 9-12)} = (16.667 * \text{ATT}) - 1450.0$$

Example:

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

$$(16.667 * 94.3) - 1450.0 = 121.7$$

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

Dropout Index Calculations for Grades 9-12

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

Dropout Goals

	10-Year Goal	20-Year Goal
Grades 9-12	7%	3%

Dropout Index Formula for Grades 9-12

$$\text{Dropout Index} = 187.5 - (12.5 \times \text{dropout rate})$$

Example:

- If the dropout rate is 4.5%, the Dropout Index would be $187.5 - (12.5 * 4.5) = 131.3$.

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

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

Data Collection and Data Verification

2.006.04 A test score shall be entered for all eligible students within a given school. For any eligible student who does not take the test, including those who are absent, a score of "0" on the CRT and NRT shall be calculated in the school's SPS. (See Standard 2.006.18 for students participating in LEAP Alternate Assessment B [LAA-B].) To assist a school in dealing with absent students, the Louisiana

Department of Education shall provide an extended testing period for test administration. The only exception to this policy is a student who was sick during the test and re-testing periods and who has formal medical documentation for that period.

The Districts and the LDE shall evaluate any instance of Irregularity or Unusual Data in the following respects:

For Attendance and Dropout data:

- The LDE shall identify a statistically valid sample of all schools included in the accountability system. All schools included in this sample shall be audited.
- Additionally, the LDE shall audit all schools included in the accountability system that have an Irregularity or Unusual Data Result (UDR), as defined below. The LDE may have an outside team conduct the audit.
- The findings of the audit shall be reported to the SBESE, the local district and local school. If the audit findings cannot be resolved, the Superintendent shall recommend to the SBESE, who shall approve the appropriate data to be used in the calculation of the School Performance Score.

For NRT and CRT data:

- If there is evidence of an Irregularity or UDR, the LEA shall be required to investigate using a process as determined by the LDE and approved by the SBESE. The LEA shall report the results of its investigation to the State Superintendent of Education.
- If the State Superintendent of Education determines that the results of the investigation do not sufficiently explain the data, s/he shall designate a team to visit the school and conduct its own investigation.
- If the gains are validated by the visit, the school will be designated a "pacesetter" school. If the gains cannot be validated, the State Superintendent of Education may initiate further action.

Reported Irregularities:

- The LDE will determine and the SBESE shall approve a process for the public to report possible Irregularities.
 - Anonymous complaints may be investigated.
 - All signed complaints shall be investigated.
- Allocation of Rewards (See Standard 2.006.08):**
- If Irregularities are resolved and the data is corrected before rewards are provided, then the rewards will be based upon the corrected data.
 - If the Irregularities are resolved and the data is corrected after rewards have been distributed, then the school shall be required to repay any rewards for which it was ineligible as determined by the audit findings or the SBESE will subtract the reward amount from future funds to be awarded to the district or from some other source.

An Unusual Data Result (UDR) shall be defined as any CRT, NRT, attendance or dropout data which exceeds a parameter, or a range of parameters, which shall be determined by the LDE and approved by the SBESE. An Irregularity shall be defined as any data which appears to contradict results which are otherwise expected; unrealistic information; or data generated as a result of defective data collection or processing.

Growth Targets

2.006.05 Each school shall receive a Growth Target that represents the amount of progress it must make every two years to reach the State's 10- and 20-Year Goals.

In establishing each school's Growth Target, the SPS inclusive of students with disabilities shall be used as the baseline. (See Standard 2.006.18.) However, the percentage of students with disabilities varies significantly across schools and the rate of growth for such students, when compared to regular education students, may be different. Therefore, the proportion of students with disabilities eligible to participate in the CRT or NRT in each school will be a factor in determining the Growth Target for each school.

Growth Targets [K-12]

During the first ten years, the formula is the following:

$[\text{PropRE} * (100 - \text{SPS})/N] + [\text{PropSE} * ((100 - \text{SPS})/(N + 5))] + [\text{PropLEP} * ((100 - \text{SPS})/(N+5))]$ or 5 points, *whichever is greater* where

PropSE = the number of special education students in the school who are eligible to participate in the NRT or CRT, divided by the total number of students in the school who are eligible to participate in the NRT or CRT. For purposes of this calculation, gifted, talented, and 504 students shall not be counted as special education students, but shall be included in the calculations as regular education students.

PropRE = $1 - \text{PropSE}$. *PropRE* is the proportion of students not in special education.

Prop LEP = the number of limited English proficient students in the school who are eligible to participate in the NRT or CRT, divided by the total number of students in the school who are eligible to participate in the NRT or CRT. A limited English proficient student shall be defined as an individual who has sufficient difficulty speaking, reading, writing, or understanding the English language and whose difficulties may deny such individual the opportunity to learn successfully in classrooms where the language of instruction is English or participate fully in our society and who 1) was not born in the United States or whose native language is a language other than English and comes from an environment where a language other than English is dominate; or 2) is a Native American or Alaska Native or who is a native resident of the outlying areas and comes from an environment where a language other than English has had a significant impact on such individual's level of English language proficiency; or 3) is migratory and whose native language is other than English and comes from an environment where a language other than English is dominate.

SPS = School Performance Score

N = Number of remaining accountability cycles in the 10-Year Goal period
The maximum amount of growth that a school shall be required to attain is 20 points.

The minimum amount of growth required shall be 5 points.

During the second ten years, the formula is the following:

$[\text{PropRE} * (150 - \text{SPS})/N] + [\text{PropSE} * ((150 - \text{SPS})/(N + 5))] + [\text{PropLEP} * ((150 - \text{SPS})/(N+5))]$, or 5 points, *whichever is greater*.

For cycle 1 only (2003), the Louisiana Department of Education shall calculate a growth target for 9-12 schools using the following formula

$.75 * [[\text{PropRE} * (100 - \text{SPS})/N] + [\text{PropSE} * ((100 - \text{SPS})/(N + 5))] + [\text{PropLEP} * ((100 - \text{SPS})/(N+5))]]$.

For combination schools, the Louisiana Department of Education shall use 2 years of data (2002 and 2003) to determine if a school has met its growth target for cycle 1. Combination schools shall use the following formula to calculate a growth target:

$[[\text{PropRE} * (100 - \text{SPS})/N] + [\text{PropSE} * ((100 - \text{SPS})/(N + 5))] + [\text{PropLEP} * ((100 - \text{SPS})/(N+5))]]$, or 5 points, *whichever is greater*.

Growth Targets for New or Reconfigured Schools

Once a baseline for the new or reconfigured school has been established, a Growth Target shall be set based on the number of cycles remaining until 2009 (K-8) and 2011 (9-12), with a maximum Growth Target of 20 points.

For example, suppose an elementary school enters the Accountability System in 2003 and establishes a baseline SPS of 50 in 2005. Normally, the school's Growth Target would be $(100-50)/2 = 25$. Under this rule, the school's Growth Target shall be 20, the maximum.

Growth Targets for Reconstituted Schools

Until 2009 (for K-8 schools) and 2011 (for 9-12 schools), the reconstituted school's Growth Target shall be equal to 100 minus the SPS divided by 5 minus the number of cycles since reconstitution.

For example, suppose a school is reconstituted in 2005 and has a SPS of 50 (based on previous year's data). The school's Growth Target for the first cycle after reconstitution shall be 10 points $[(100-50)/5]$.

Inclusion of Alternative Education Students

2.006.17 Each superintendent, in conjunction with the alternative school director, shall choose from one of two options for including alternative education students in the Louisiana Accountability System for the system's alternative education schools.

Option I The score for every alternative education student at a given alternative school shall be returned to ("sent back") and included in the home-based school's SPS. The alternative school itself shall receive a "diagnostic" SPS, not to be used for rewards or Corrective Actions, if a statistically valid number of students were enrolled in the school at the time of testing.

Students included in the GED/Skills Option program will be included in School Accountability. They will be required to take the 9th grade Iowa Test or participate in LEAP Alternate Assessment B (LAA-B) or LEAP Alternate Assessment (LAA) while enrolled. All programs will be considered Option I for alternative education purposes and student data will be sent back to the sending high schools for attendance, dropout and Iowa Test scores.

Option II The score for every alternative education student shall remain at the alternative school. The alternative school shall be given its own SPS and Growth Target, which makes the alternative school eligible for rewards and Corrective Actions.

In order to be eligible for Option II, an alternative school shall meet all of the following requirements:

- the alternative school must have its own site code and operate as a school;
- the alternative school must have a required minimum number of students in the tested grade levels; the definition of *required minimum* is stated in Section 2.006.19; and
- at least 50 percent of the total school population must have been enrolled in the school for the entire school year, October 1-May 1.

Once an option is selected for an alternative school, it shall remain in that option for at least 10 years. An appeal to the SBESE may be made to change the option status prior to the end of 10 years if a school's purpose and/or student eligibility changes.

An alternative school that chooses Option II shall receive an initial baseline SPS during summer of 1999 if the majority of its students are in grades K-8. If the majority of its students are in grades 9-12, an alternative school shall receive its baseline SPS during the summer of 2001.

All students pursuing a regular high school diploma, working in curricula developed from Louisiana Content Standards, shall be included in the State-testing program, with those scores included in a SPS. Information on these students-e.g., number receiving a GED-shall be reported in the school's report card as a sub-report.

An alternative school in Corrective Actions II may request some flexibility in obtaining assistance from either a Distinguished Educator (DE) or a team designed to address the special needs of the alternative school population, as long as the total costs for the team do not exceed that for the DE. Sample team members could include the following: social workers, psychologists, educational diagnosticians, and counselors, etc.

Inclusion of Lab Schools and Charter Schools

Such schools shall be included in the Louisiana Accountability System following the same rules that apply to traditional and/or alternative schools. The only exceptions are that Lab Schools and Type 1, 2, and 3 Charter Schools are "independent@schools and cannot be "paired@or "shared@with another school if they do not have at least one CRT and one NRT grade level, and/or if there is no "home-based@district school to which a given

student's scores can be returned if all three conditions for Option II cannot be met. Therefore, if they do not have the required grade levels and/or required minimum number of students, such schools cannot receive a SPS. Instead, the State shall publish the results from pre- and post-test student achievement results, as well as other relevant accountability data, as part of that school's report card. This policy is to be revisited during the year 2001.

For the 1999-2000 academic school year, detention and Department of Corrections facilities shall NOT receive a SPS.

Inclusion of Students with Disabilities

2.006.18 All students, including those with disabilities, shall participate in Louisiana's new testing program. The scores of all students who are eligible to take the CRT and the NRT shall be included in the calculation of the SPS. Most students with disabilities shall take the CRT and the NRT with accommodations, if required by their Individualized Education Program (IEP). A small percentage of students with very significant disabilities, limited to 1.5 percent per grade level per school district, shall participate in LEAP Alternate Assessment (LAA), as required by their IEP.

Local Education Agencies (LEAs) have the option to allow or disallow LEAP Alternate Assessment B (LAA-B). The decision to allow or disallow LAA-B must be in effect for one accountability cycle. The LEA shall determine the percentage of students who can test LAA-B, not to exceed a total of 4 percent of students at any grade level per school district. This 4 percent includes those students participating in LAA. The parent must agree with LAA-B through written parental approval, via the IEP. There shall be an appeals method in place to make decisions on exceptions when the district's 4 percent cap has been exceeded.

A student participating in LAA-B testing must test three or more grade levels below in either English/Language Arts or Mathematics. If a student does not test three or more grade levels below in at least one of these subject areas, the school will receive a "0" for that student's growth in the calculation of the school's SPS.

For students with disabilities who test in LAA-B, Iowa (ITBS) standard scores from two consecutive years shall be compared in the following manner to determine student performance in calculating the SPS:

Less than 5 standard score points of progress	0 points (Unsatisfactory)
5-9 standard score points of progress	50 points (Approaching Basic)
10-14 standard score points of progress	100 points (Basic)
15-19 standard score points of progress	150 points (Proficient)
20 + standard score points of progress	200 points (Advanced)

Appeals Process for Exceeding the Established Caps for LAA or LAA-B of Students with Disabilities

- School districts that either
- A) exceed a total of 4 percent but less than 5 percent of the total district population at any grade level participating in LAA-B and LAA, AND/OR
 - B) exceed a total of 1.5 percent but less than 2 percent of the total district population at any grade level participating in LAA.

must submit the following to the Department of Education (DOE) for review and approval:

- 1) a justification documenting the reasons for exceeding the cap(s), and
 - 2) a corrective action plan to
- increase participation in on-level assessment of the total district population at the grade level(s) where the cap was exceeded, and when applicable;
 - decrease participation in LAA to a maximum of 1.5 percent of the total district population at the grade level(s) where the cap was exceeded.
- School districts that either
- A) exceed a total of 5 percent or more of the total district population at any grade level participating in LAA-B and LAA, AND/OR
 - B) exceed a total of 2 percent of the total district population at any grade level participating in LAA
- must submit the following to the Department of Education for review and approval:
- 1) a justification documenting the reasons for exceeding the cap(s), and
 - 2) a corrective action plan to
- increase participation in on-level assessment of the total district population at the grade level(s) where the cap was exceeded, and when applicable;
 - decrease participation in LAA to a maximum of 1.5 percent of the total district population at the grade level(s) where the cap was exceeded.

The school district will receive an onsite investigation by a Department of Education team; and following the investigation, the DOE team will meet with the school district's superintendent and appropriate staff to address the findings and revise, if necessary, the submitted corrective action plan.

III. The DOE will report to the SBESE on each appeal.

Interested persons may submit written comments until 4:30 p.m., September 8, 2002, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Policy for Louisiana's Public Education Accountability System

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

There are no estimated implementation costs (savings) to state governmental units. The proposed changes more clearly explain and refine the existing policy as it pertains to the state assessments administered to students with disabilities.

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0207#026

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Reasonable and Proper Care for and Control over Textbooks and Other Materials of Instruction (LAC 28:XXXIII.523)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 1794, *State Textbook Adoption Policy and Procedure Manual*, referenced in LAC 28:XXXIII. Bulletin 1794 is being revised to reflect legislative changes. Act 315 of the 2001 Regular Session of the Louisiana Legislature requires the principal of every school to transfer student educational records, within 10 business days, to educational facilities operated within correctional or health facilities, upon receipt of a written request. In addition, the authority for schools to withhold grades of students who have fines or fees related to lost or damaged books has been removed.

Title 28

EDUCATION

Part XXXIII. Bulletin 1794C State Textbook Adoption Policy and Procedure Manual

Chapter 5. Local School System Responsibilities

§523. Reasonable and Proper Care for and Control over Textbooks and Other Materials of Instruction

NOTE: This policy shall also be applicable to instructional materials, supplies, and equipment. (See also *Bulletin 741*)

A. The SDE recommends that Student Handbooks, issued to students at the beginning of each school year, include a policy statement that stipulates responsibility for proper use and control over textbooks and other materials of instruction that are on loan to the students during the school year. Signature lines should be included for both students' and parent/legal guardians' acknowledgement of responsibility. In addition, a contact name and phone number should be provided. Payment plans for restitution by parents/guardians may be specified.

B. Each school system, as part of its responsibility to ensure proper care and control of textbooks, shall adopt procedures that hold students and parents/guardians responsible for exercising reasonable and proper care of textbooks and materials of instruction.

C. Such procedures may provide that parents and/or legal guardians may be required to compensate the school district for lost, destroyed, or unnecessarily damaged books and materials, and for any books which are not returned to the proper schools at the end of each school year or upon withdrawal of their dependent child. Under no circumstances may a student of school age be held financially responsible for fees associated with textbook replacement.

D. Compensation by parents or guardians may be in the form of monetary fees or community/school service activities, as determined by the school governing authority. In the case of monetary fees, fines shall be limited to no more than the replacement cost of the textbook or material, but may, at the discretion of the governing authority, be adjusted according to the physical condition of the lost or destroyed textbook. A school system may waive or reduce

the payment required if the student is from a family of low income and may provide for a method of payment other than lump-sum payment.

E. In lieu of monetary payments, both school systems and parents/guardians may elect to have students perform school/community service activities, provided that such are arranged so as not to conflict with school instructional time; these activities shall be properly supervised by school staff and shall be suitable to the age of the child.

F. Under no circumstances may a school or school district refuse the parent/guardian the right to inspect relevant grades or records pertaining to the child; nor may the school or school district refuse to transfer promptly the records of any child withdrawing or transferring from the school, per requirements of the Federal Family Educational Rights and Privacy Act. Transfer of records shall not exceed 45 days from the date of request, except for requests from any educational facility operated within any correctional or health facility. The transfer of such records shall not exceed 10 business days from the date of receipt of the written request.

G. Under no circumstances may a school or school district deny a student promotional opportunities, as a result of his/her failure to compensate the school district for lost or damaged textbooks. Students shall not be denied continual enrollment each grading period nor re-entry in succeeding school years as a result of lost or damaged books.

H. Students shall not be denied the use of a textbook during school hours each day. Each school system shall annually inform parents and/or legal guardians of the locally adopted procedures pursuant to state law and regulation, regarding reasonable and proper control of textbooks (See also *Bulletin 741, Louisiana Handbook for School Administrators* (Revised, 1997) for policy regarding this legislation).

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 26:1001 (May 2000), LR 28:

Interested persons may submit written comments until 4:30 p.m., September 8, 2002, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Reasonable and Proper Care for and Control over Textbooks and Other Materials of Instruction

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

The estimated implementation cost for this rule change is \$1,350.

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

This rule change should have no measurable effect on state or local revenue collections.

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

There is no anticipated cost or economic benefit to any non-governmental group.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition or employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0207#024

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Corrections to Organizational Citations
(LAC 33:V.4201, 4205, 4211, and 4241)(HW082)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste regulations, LAC 33:V.4201, 4205, 4211, and 4241 (Log #HW082).

This proposed rule makes a minor correction for clarification and corrects errors in the use of "administrative authority" by replacing the term with the correct office and division for submittals or notification requirements. This action is being taken to encourage and assist the regulated entities in the proper submittal of information and notification to the department. The basis and rationale for this rule are to provide consistency in the regulations with regards to information submittal and notification to the department.

This proposed 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.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental

Quality

Chapter 42. Conditional Exemption for Low-Level

Mixed Waste Storage and Disposal

§4201. What Definitions Apply to this Chapter?

A. This Chapter uses the following special definitions.

* * *

We or *Us*Administrative authority, as defined in LAC 33:V.109. Within this Chapter, the administrative authority is the Office of Environmental Services, Permits Division, unless otherwise indicated.

* * *

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

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:1004 (May 2002), amended LR 28:

§4205. What Wastes are Eligible for the Storage and Treatment Conditional Exemption?

A. LLMW, defined in LAC 33:V.4201, is eligible for this conditional exemption if it is generated and managed by you under a single department, NRC, or other NRC agreement state license. (Mixed waste generated at a facility with a different license number and shipped to your facility for storage or treatment requires a permit and is ineligible for this exemption. In addition, NARM waste is ineligible for this exemption.)

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

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:1005 (May 2002), amended LR 28:

§4211. How Could You Lose the Conditional Exemption for Your LLMW and What Action Must You Take?

A. - A.1.c. ...

2. If the failure to meet any of the conditions may endanger human health or the environment, you must also immediately notify the Office of Environmental Compliance by telephone or by e-mail within 24 hours after learning of the discharge. Notification should be made to the Office of Environmental Compliance by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or by e-mail utilizing the Incident Report Form and procedures found at www.deq.state.la.us/surveillance and followed up with a written notification within five days. Failures that may endanger human health or the environment include, but are not limited to, discharge of a CERCLA reportable quantity or other leaking or exploding tanks or containers or detection of radionuclides above background or hazardous constituents in the leachate collection system of a storage area. If the failure may endanger human health or the environment, you must follow the provisions of your emergency plan.

B. ...

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

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:1006 (May 2002), amended LR 28:

§4241. How Could You Lose the Transportation and Disposal Conditional Exemption for Your Waste and What Actions Must You Take?

A. Any waste will automatically lose the transportation and disposal exemption if you fail to manage it in accordance with all of the conditions specified in LAC 33:V.4225.

1. When you fail to meet any of the conditions specified in LAC 33:V.4225 for any of your wastes, you must report to the Office of Environmental Compliance, Surveillance Division, in writing by certified delivery, within 30 days of learning of the failure. Your report must be signed by your authorized representative certifying that the information provided is true, accurate, and complete. This report must include:

a. - c. ...

2. If the failure to meet any of the conditions may endanger human health or the environment, you must also immediately notify the Office of Environmental Compliance by telephone or by e-mail within 24 hours after learning of the discharge. Notification should be made to the Office of Environmental Compliance by telephone at (225) 763-3908 during office hours; (225) 342-1234 after hours, weekends, and holidays; or by e-mail utilizing the Incident Report Form and procedures found at www.deq.state.la.us/surveillance then followed up with a written notification within five days.

B. ...

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

HISTORICAL NOTE: Promulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 28:1008 (May 2002), amended LR 28:

A public hearing will be held on August 27, 2002, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Attendees should report directly to the hearing location for DEQ visitor registration, instead of to the security desk in the DEQ Headquarters building. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference this proposed regulation by HW082. Such comments must be received no later than September 3, 2002, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0389 or by email to patsyd@deq.state.la.us. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of HW082.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-First Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Corrections to Organizational Citations**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No costs or savings are anticipated as a result of the implementation of the proposed action.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.

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

The regulated community will benefit from this rule by having a more direct contact to whom to submit their required information in the department. This may result in an indirect decrease in cost and increase in economic benefit to the regulated community.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no known impacts of the proposed action on competition and employment in the public and private sectors.

James H. Brent
Assistant Secretary
0207#028

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Used Motor Vehicle and Parts Commission**

Change in Time of Board Meeting, Public Comments at Board Meetings, Educational Seminars
(LAC 46:V.2701, 4401, and 4403)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with Revised Statutes Title 32, Chapters 4A and 4B, the Office of the Governor, Used Motor Vehicle and Parts Commission, notice is hereby given that the Used Motor Vehicle and Parts Commission proposes to adopt rules and regulations governing public comments at Board Meetings in accordance with R.S. 47:5.D and educational seminars in accordance with R.S. 32:774.B.(3)(b)(i)-(iv). The Used Motor Vehicle Parts Commission proposes to amend the time of the regularly scheduled Board Meetings as indicated in R.S. 32:772.E.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part V. Automotive Industry
Subpart 2. Used Motor Vehicle and Parts Commission
Chapter 27. The Used Motor Vehicle and Parts
Commission**

§2701. Meetings of the Commission

A. The Commission shall meet at its office in Baton Rouge, LA on the third Tuesday in each month to transact such business as may properly come before it. The regular meeting will convene at the hour of 9 a.m. and shall continue at the pleasure of those present. Any change of monthly meetings will be in accordance with the Open Meeting Law R.S. 42.5.

B. ...

C. A public comment period shall be held at or near the beginning of each board meeting. Persons desiring to present public comments shall notify the board chairman no later than 48 hours prior to the date of the regular meeting and 72 hours prior to the date of a special meeting. All written requests to have an item or items placed on the agenda must indicate, in detail, what items they wish to discuss. Public discussions are limited only to items on the agenda. There will be a maximum of 30 minutes for all public comments to be heard and each person will be limited to three minutes.

Additional time can be allowed by the chairman as he deems reasonable. Each person making public comments shall identify himself and the group, organization or company he represents, if any.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772.E and R.S. 42:5.D.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 15:1058 (December 1989), LR 18:1116 (October 1992), LR 24:1682 (September 1998), LR 25:1792 (October 1999), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:

Chapter 44. Educational Seminar

§4401. Required Attendance

A. On and after January 1, 2002, every applicant for a used motor vehicle dealer's license that has not been licensed prior to January 1, 2003, must attend a four-hour educational seminar approved and conducted by the Used Motor Vehicle and Parts Commission. Existing dealers will be grandfathered in and not mandatorily required to attend said seminar.

1. The seminar will be conducted by employees of the Used Motor Vehicle and Parts Commission and will be held at the office of the commission located at 3132 Valley Creek Drive, Baton Rouge, Louisiana, 70808.

2. The seminar will be held once a month on the first Monday of each month beginning at 9 a.m. and ending at 1 p.m.

3. As a courtesy to existing dealers, educational seminars will be conducted throughout the state once a year.

4. In addition to new dealers being required to attend the four hour seminar, any existing dealers who are found guilty of violations of commission laws and/or rules and regulations will be required to attend.

5. There will be no charge for attendance to the educational seminar.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774.B.(3)(b)(i)-(iv).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:

§4403. Certification

A. Upon applying for a 2003 used motor vehicle dealer's license, the applicant must attach a copy of the certificate of completion which documents that the dealership's general manager, office manager, title clerk or other responsible representative of the dealership has attended the four-hour educational seminar. If the applicant has not completed the educational seminar, he must provide evidence that he has registered to attend such seminar within 60 days after issuance of the license.

B. The certificate shall list the participant's name and title, name and address of the used motor vehicle dealer, date of completion and signature of instructor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774.B.(3)(b)(i)-(iv).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:

§4403. Educational Program

A. The educational seminar will consist of information pertaining to the Used Motor Vehicle and Parts Commission,

Department of Revenue and Taxation, Office of Motor Vehicles, Wildlife and Fisheries, Motor Vehicle Commission and Attorney General's Office. The items to be reviewed are as follows:

1. LUMVPCbackground of the agency, laws, rules and regulations, license requirements, area of responsibility, complaint procedures, hearing procedures and non-delivery of titles;

2. LMVCCfinance licenses;

3. RevenueCsubmission of monthly sales reports and collection of taxes;

4. Office of Motor VehiclesCnon-delivery of titles, certificates of title and completion of titles by dealers;

5. Wildlife and FisheriesCregistration of marine products;

6. Office of Attorney GeneralCcivil and criminal matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774.B.(3)(b)(i)-(iv).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:

Interested persons may submit written comments no later than 4:30 p.m. on July 20, 2002 to John M. Torrance, Executive Director, 3132 Valley Creek Drive, Baton Rouge, LA, 70808, (225) 925-3870.

John M. Torrance
Executive Director

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

**RULE TITLE: Change in Time of Board Meeting,
Public Comments at Board Meetings, Educational
Seminars**

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

There will be no implementation costs. The materials that will be distributed at the seminars are the same materials initially given to new dealers at the time of inspection of their dealerships. Field employees will be teaching the seminars which will be held at the commission office.

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

Revenues will not be affected by these proposed rules.

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

There will not be any costs or economic benefits to directly affected persons or non-governmental groups. Licensees will not be charged a fee to attend the educational seminars.

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

The proposed rules on the educational seminars will have a positive effect on the used car dealers with regard to competition and employment. By adopting what is learned in these educational seminars, they can better serve the public and insure customers returning for future purchases and/or referrals to new potential customers.

John M. Torrance
Executive Director
0207#027

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Dispensing of Medications
(LAC 46:XLV.6507 and 6513)

Notice is hereby given, in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., that the Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by the Louisiana Medical Practice Act, R.S. 37:1261-1292 and R.S. 37:1201, intends to amend Title 46:XLV, Subpart 3, Chapter 65, §§6507 and 6513 of its existing medication dispensing rules governing the effect of providing false or misleading information on an application and the eligibility requirements prerequisite to registration as a dispensing physician. The proposed rules have no known impact on family formation, stability or autonomy as described in R.S. 49:972.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**PART XLV. Medical Profession
Subpart 3. Practice**

**Chapter 65. Dispensation of Medications
Subchapter B. Prohibitions and Sanctions
§6507. Action Against Medical License**

A. Violation of the prohibitions set forth in §6505, or providing false or misleading statements in connection with any application required by this Subchapter, shall be deemed to constitute just cause for the suspension, revocation, refusal to issue, or the imposition of probationary or other restrictions on any license or permit to practice medicine in the state of Louisiana held or applied for by a physician culpable of such violation, or for other administrative action as the board may in its discretion determine to be necessary or appropriate, under R.S. 37:1285.A.(3), R.S.37:1285.A.(4), R.S. 37:1285.A.(6), and R.S. 1285.A.(30), respectively.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, R.S. 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 13:570 (October 1987), amended LR 25:1248 (July 1999), LR 28:

Subchapter C. Registration

§6513. Eligibility for Registration as a Dispensing Physician

A. To be eligible for registration as a dispensing physician, a physician shall, as of the date of the application:

1. possess a current, unrestricted license to practice medicine duly issued by the board;
2. have been in the active practice of medicine for not less than three years following the date on which the physician was awarded a doctor of medicine or doctor of osteopathy degree;
3. not currently be enrolled in a medical residency or other post graduate medical training program; and
4. possess a current, unrestricted license to prescribe, dispense, and administer controlled substances duly issued

by the Office of Narcotics and Dangerous Drugs, Department of Health and Human Resources, state of Louisiana, and be currently registered to prescribe, dispense, and administer controlled substances, without restriction, with the Drug Enforcement Administration, United States Department of Justice.

B. - B.6. ...

7. has been denied, had suspended, revoked, restricted, or relinquished, staff or clinical privileges at any hospital or other health care institution while under investigation for, or as a result of, the physician's competency or conduct;

B.8. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, R.S. 37:1201.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 13:570 (October 1987), amended LR 25:1249 (July 1999), LR 28:

Interested persons may submit written date, views, arguments, information or comments on the proposed Rule amendments until 4 p.m., August 21, 2002, to John B. Bobear, M.D., Executive Director, Louisiana State Board of Medical Examiners, P.O. Box 30250, New Orleans, LA 70190-0250 (630 Camp Street, New Orleans, LA 70130).

John B. Bobear, M.D.
Executive Director

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

RULE TITLE: Dispensing of Medications

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
Other than rule publication costs, estimated to be \$420 in FY 2002, it is not anticipated that implementation of the proposed Rule amendments will result in any costs to the board or any other state or local governmental unit. The board does not anticipate that adoption of the proposed rule amendments will result in either an increase or reduction in workload or any additional paperwork.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is not anticipated that the proposed rules amendments will have a material effect on the board's revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
It is not anticipated that the proposed rule amendments will have a material effect on costs, paperwork or workload of physicians who seek to become, or who may continue to be registered as, dispensing physicians.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
It is not anticipated that the proposed rule amendments will have a material impact on competition or employment in either the public or private sector.

John B. Bobear, M.D.
Executive Director
0207#036

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Adult Day Health Care Services
Prospective Payment System
Reimbursement Methodology
(LAC 50:II.10909 and 10939)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Human Resources, Office of Family Security adopted a Rule establishing the Standards for Payment for the Adult Day Health Care Program (*Louisiana Register*, Volume 11, Number 6). The June 20, 1985 Rule was later amended to revise the Standards for Payment in order to improve the operations of the program (*Louisiana Register*, Volume 13, Number 3). The March 20, 1987 Rule was subsequently amended by the Department of Health and Hospitals, Bureau of Health Services Financing to establish provider protocol for the medical certification process and to codify the Rule into the Louisiana Administrative Code (*Louisiana Register*, Volume 23, Number 9). A Rule was later adopted to amend licensure requirements contained in the September 1997 Rule and to include the acronym for the Division of Home and Community Based Services Waiver (DHCBSW) (*Louisiana Register*, Volume 25, Number 6). The Bureau now proposes to amend the reimbursement methodology for Adult Day Health Care services from a facility specific rate based on historical cost to a statewide rate based on set percentages over the median by cost category.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the reimbursement methodology for Adult Day Health Care services from a facility specific rate based on historical cost to a statewide rate based on set percentages over the median by cost category and establishes a prospective payment system effective January 1, 2003.

Title 50

PUBLIC HEALTHC MEDICAL ASSISTANCE

Part II. Medical Assistance Program

Subpart 3. Standards for Payment

Chapter 109. Standards for PaymentC Adult Day Health Care Services

§10909. Provider Agreement

A. - E.23. ...

F. DHH agrees to make payment to the provider on behalf of eligible recipients if the provider is enrolled in the Medicaid Program as an ADHC center.

G.1. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:623 (June 1985), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 13:181 (March 1987), LR 23:1150 (September 1997), LR 28:

§10939. Prospective Payment System

A. General Provisions

1. Development. Adult Day Health Care (ADHC) providers shall be reimbursed a per diem rate for services provided under a prospective payment methodology. The system shall be designed in a manner that recognizes and reflects the cost of direct care services provided. The reimbursement methodology is designed to improve the quality of care for all adult day health care recipients by ensuring that direct care services are provided at an acceptable level while fairly reimbursing the providers.

2. The prospective payment methodology establishes statewide rates for services provided with components for direct care costs, care related costs, administrative and operating costs, and property costs.

3. Cost Centers

a. Direct Care Costs. This component reimburses for in-house and contractual direct care staffing and fringe benefits and direct care supplies.

b. Care Related Costs. This component reimburses for in-house and contractual salaries and fringe benefits for activity and social services staff, raw food costs and care related supplies for activities and social services.

c. Administrative and Operating Costs. This component reimburses for in-house or contractual salaries and related benefits for administrative, dietary, housekeeping and maintenance staff. Also included are:

i. utilities;

ii. accounting;

iii. dietary;

iv. housekeeping and maintenance supplies; and

v. all other administrative and operating type expenditures.

d. Property. This component reimburses for depreciation, interest on capital assets, lease expenses, property taxes and other expenses related to capital assets.

4. Rate Setting

a. Direct Care Costs. A statewide base rate for direct care is computed at 115 percent of the median facility per diem direct care costs submitted on all full year cost reports except those for which an audit disclaimer has been issued. Direct care costs are trended forward using the Consumer Price Index (CPI)C Medical Services.

b. Care Related Costs. A statewide base rate for care related costs is computed at 105 percent of the median facility per diem care related costs submitted on all full year cost reports except those for which an audit disclaimer has been issued. Care related costs are trended forward using the CPIC All Items.

c. Administrative and Operating Costs (OAC). A statewide base rate for administrative and operating costs is computed at 105 percent of the median facility per diem administrative and operating costs submitted on all acceptable cost reports except for those for which an audit

disclaimer has been issued and are trended forward using the CPICAll Items.

d. Property. The property rate is computed at the median of property costs submitted on all acceptable full year cost reports. Inflation will not be added to property costs.

e. All trending shall be from the mid-point of the year preceding the cost report year to the midpoint of the year preceding the rate year.

5. Total Per Diem Rate. The per diem rate is the sum of the rate components.

6. Cost Settlement. The direct care cost component shall be subject to cost settlement. Should an ADHC facility's cost report reveal that the provider did not expend an amount equal to 90 percent of the direct care payment for the year for direct care services, the Medicaid program will recover the difference between 90 percent of the direct care payment and the actual direct care amount expended.

B. Cost Reporting

1. Providers of adult day health care services are required to file annual cost reports of all reasonable and allowable costs. The annual cost reports are the basis for determining reimbursement rates. A copy of all reports and statistical data must be retained by the facility for no less than five years following the date reports are submitted to the Bureau. A chart of accounts and an accounting system on the accrual basis or converted at year end are required in the cost reporting preparation process. The Bureau or its designee will perform desk reviews of the cost reports. In addition to the desk review, a representative number of the facilities shall be subject to a full-scope, annual on-site audit. All ADHC cost reports shall be filed with a fiscal year from July 1 through June 30.

2. The cost reporting forms and instructions developed by the Bureau must be used by all ADHC facilities participating in the Louisiana Medicaid Program. Hospital based and other provider based ADHC which use Medicare forms for step down in completing their ADHC Medicaid cost reports must submit copies of the applicable Medicare cost report forms. All amounts must be rounded to the nearest dollar and must foot and cross foot. Only per diem cost amounts will not be rounded. Cost reports submitted that have not been rounded in accordance with this policy will be returned and will not be considered as received until they are resubmitted.

3. Annual Reporting. Cost reports are to be filed on or before the last day of September following the close of the reporting period. Should the due date fall on a Saturday, Sunday, or an official state or federal holiday, the due date shall be the following business day. The cost report forms and schedules must be filed in duplicate together with two copies of the following documents:

a. a working trial balance that includes the appropriate cost report line numbers to which each account can be traced. This may be done by writing the cost report category and line numbers by each ending balance or by running a trial balance in cost report category and line number order that totals the account;

b. a depreciation schedule. If the facility has different book and Medicaid depreciation schedules, copies of both depreciation schedules must be submitted. If the facility has home office costs, copies of the home office

depreciation schedules must also be submitted. All hospital based facilities must submit two copies of a depreciation schedule that clearly shows and totals assets that are hospital only, ADHC only and shared assets;

c. an amortization schedule(s), if applicable;

d. a schedule of adjustment and reclassification entries;

e. a narrative description of purchased management services or a copy of contracts for managed services, if applicable;

f. a narrative description or a copy of the contracts for management services provided by a related party or home office, a description of the basis used to allocate the costs to providers of the group and to nonprovider activities and copies of the cost allocation worksheet, if applicable. Costs included that are for related management/home office costs must also be reported on a separate cost report that includes an allocation schedule;

g. all allocation worksheets must be submitted by hospital-based facilities. The Medicare worksheets that must be attached by facilities using the Medicare forms for allocation are:

i. A;

ii. A-6;

iii. A-7, Parts I, II, and III;

iv. A-8;

v. A-8-1;

vi. B, Part 1; and

vii. B-1.

4. Each copy of the cost report must have the original signatures of an officer or facility administrator on the certification. The cost report and related documents must be submitted to the address indicated on the cost report instruction form. In order to avoid a penalty for delinquency, cost reports must be postmarked on or before the due date.

5. When it is determined upon initial review for completeness that an incomplete or improperly completed cost report has been submitted, the provider will be notified. The provider will be allowed a specified amount of time to submit the requested information without incurring the penalty for a delinquent cost report. For cost reports that are submitted by the due date, 10 working days from the date of the providers receipt of the request for additional information will be allowed for the submission of the additional information. For cost reports that are submitted after the due date, five working days from the date of the providers receipt of the request for additional information will be allowed for the submission of the additional information. An exception exists in the event that the due date comes after the specified number of days for submission of the requested information. In these cases, the provider will be allowed to submit the additional requested information on or before the due date of the cost report. If requested additional information has not been submitted by the specified date, a second request for the information will be made. Requested information that is not received after the second request may not be subsequently submitted and shall not be considered for reimbursement purposes. An appeal of the disallowance of the costs associated with the requested information may not be made. Allowable costs will be adjusted to disallow any expenses or cost findings that are not submitted.

6. Accounting Basis. The cost report must be prepared on the accrual basis of accounting. If a facility is on a cash basis, it will be necessary to convert from a cash basis to an accrual basis for cost reporting purposes. Particular attention must be given to an accurate accrual of all costs at the year end for the equitable distribution of costs to the applicable period. Care must be given to the proper allocation of costs for contracts to the period covered by such contracts. Amounts earned although not actually received and amounts owed to creditors but not paid must be included in the reporting period.

7. Supporting Information. Providers are required to maintain adequate financial records and statistical data for proper determination of reimbursable costs. Financial and statistical records must be maintained by the facility for five years from the date the cost report is submitted to the Bureau. Cost information must be current, accurate and in sufficient detail to support amounts reported in the cost report. This includes all ledgers, journals, records, and original evidences of cost (canceled checks, purchase orders, invoices, vouchers, inventories, time cards, payrolls, bases for apportioning costs, etc.) that pertain to the reported costs. Census data reported on the cost report must be supportable by daily census records. Such information must be adequate and available for auditing.

8. Nonacceptable Descriptions. Miscellaneous, Other and Various, without further detailed explanation, are not acceptable descriptions for cost reporting purposes. If any of these are used as descriptions in the cost report, a request for information will not be made and the related line item expense will be automatically disallowed. The provider will not be allowed to submit the proper detail of the expense at a later date, and an appeal of the disallowance of the costs may not be made. (See §10939.B.10.c.xliii)

9. Exceptions. Limited exceptions to the cost report requirements will be considered on an individual provider basis upon written request from the provider to the Bureau of Health Services Financing, Rate and Audit Review Section. If an exception is allowed, providers must attach a statement describing fully the nature of the exception for which prior written permission was requested and granted. Exceptions which may be allowed with written approval are as follows:

a. For the initial reporting period only, the provider may allocate costs to the various cost centers on a reasonable basis if the required itemized cost breakdown is not available.

b. If the center has been purchased, leased or has effected major changes in the accounting system as an ongoing concern within the reporting period, a partial year cost report may be filed in lieu of the required 12-month report.

c. If the center experiences unavoidable difficulties in preparing the cost report by the prescribed due date, an extension may be requested prior to the due date. Requests for exception must contain a full statement of the cause of the difficulties that rendered timely preparation of the cost report impossible.

10. Cost Categories Included in the Cost Report

a. Direct Care (DC) Costs

i. Salaries, Aides gross salaries of certified nurse aides and nurse aides in training.

ii. Salaries, LPNs gross salaries of non-supervisory licensed practical nurses and graduate practical nurses.

iii. Salaries, RNs gross salaries of non-supervisory registered nurses and graduate nurses (excluding director of nursing and resident assessment instrument coordinator).

iv. Salaries, Social Services gross salaries of non-supervisory licensed social services personnel providing medically needed social services to attain or maintain the highest practicable physical, mental, or psychosocial well being of the residents.

v. Salaries, Activities gross salaries of non-supervisory activities/recreational personnel providing an ongoing program of activities designed to meet, in accordance with the comprehensive assessment, the interest and the physical, mental, and psychosocial well-being of the residents.

vi. Payroll Taxes cost of employer's portion of Federal Insurance Contribution Act (FICA), Federal Unemployment Tax Act (FUTA), State Unemployment Tax Act (SUTA), and Medicare tax for direct care employees.

vii. Group Insurance, DCCost of employer's contribution to employee health, life, accident and disability insurance for direct care employees.

viii. Pensions, DCCost of employer's contribution to employee pensions for direct care employees.

ix. Uniform Allowance, DCCEmployer's cost of uniform allowance and/or uniforms for direct care employees.

x. Worker's Comp, DCCost of worker's compensation insurance for direct care employees.

xi. Contract, Aides Cost of aides through contract that are not facility employees.

xii. Contract, LPNs Cost of LPNs and graduate practical nurses hired through contract that are not facility employees.

xiii. Contract, RNs Cost of RNs and graduate nurses hired through contract that are not facility employees.

xiv. Drugs, Over-the-Counter and Legend Cost of over-the-counter and legend drugs provided by the facility to its residents. This is for drugs not covered by Medicaid.

xv. Medical Supplies Cost of patient-specific items of medical supplies such as catheters, syringes and sterile dressings.

xvi. Medical Waste Disposal Cost of medical waste disposal including storage containers and disposal costs.

xvii. Other Supplies, DCCost of items used in the direct care of residents which are not patient-specific such as prep supplies, alcohol pads, betadine solution in bulk, tongue depressors, cotton balls, thermometers, and blood pressure cuffs.

xviii. Allocated Costs, Hospital Based the amount of costs that have been allocated through the step-down process from a hospital or state institution as direct care costs when those costs include allocated overhead.

xix. Total Direct Care Costs sum of the above line items.

b. Care Related Costs

i. Salaries gross salaries for care related supervisory staff including supervisors or directors over nursing, social service and activities/recreation.

ii. Salaries, Dietary **C**gross salaries of kitchen personnel including dietary supervisors, cooks, helpers and dishwashers.

iii. Payroll Taxes **C**cost of employer's portion of Federal Insurance Contribution Act (FICA), Federal Unemployment Tax Act (FUTA), State Unemployment Tax Act (SUTA), and Medicare tax for care related employees.

iv. Group Insurance, **C**cost of employer's contribution to employee health, life, accident and disability insurance for care related employees.

v. Pensions, **C**cost of employer's contribution to employee pensions for care related employees.

vi. Uniform Allowance, **C**employer's cost of uniform allowance and/or uniforms for care related employees.

vii. Worker's Comp, **C**cost of worker's compensation insurance for care related employees.

viii. Barber and Beauty Expense **C**the cost of barber and beauty services provided to patients for which no charges are made.

ix. Consultant Fees, Activities **C**fees paid to activities personnel, not on the facility's payroll, for providing advisory and educational services to the facility.

x. Consultant Fees, Nursing **C**fees paid to nursing personnel, not on the facility's payroll, for providing advisory and educational services to the facility.

xi. Consultant Fees, Pharmacy **C**fees paid to a registered pharmacist, not on the facility's payroll, for providing advisory and educational services to the facility.

xii. Consultant Fees, Social Worker **C**fees paid to a social worker, not on the facility's payroll, for providing advisory and educational services to the facility.

xiii. Consultant Fees, Therapists **C**fees paid to a licensed therapist, not on the facility's payroll, for providing advisory and educational services to the facility.

xiv. Food, Raw **C**cost of food products used to provide meals and snacks to residents. Hospital based facilities must allocate food based on the number of meals served.

xv. Food, Supplements **C**cost of food products given in addition to normal meals and snacks under a doctor's orders. Hospital based facilities must allocate food-supplements based on the number of meals served.

xvi. Supplies, **C**the costs of supplies used for rendering care related services to the patients of the facility. All personal care related items such as shampoo and soap administered by all staff must be included on this line.

xvii. Allocated Costs, Hospital Based **C**the amount of costs that have been allocated through the step-down process from a hospital or state institution as care related costs when those costs include allocated overhead.

xviii. Total Care Related Costs **C**the sum of the care related cost line items.

c. Administrative and Operating Costs (AOC)

i. Salaries, Administrator **C**gross salary of administrators excluding owners. Hospital based facilities must attach a schedule of the administrator's salary before allocation, the allocation method, and the amount allocated to the nursing facility.

ii. Salaries, Assistant Administrator **C**gross salary of assistant administrators excluding owners.

iii. Salaries, Housekeeping **C**gross salaries of housekeeping personnel including housekeeping supervisors, maids and janitors.

iv. Salaries, Laundry **C**gross salaries of laundry personnel.

v. Salaries, Maintenance **C**gross salaries of personnel involved in operating and maintaining the physical plant, including maintenance personnel or plant engineers.

vi. Salaries, Drivers **C**gross salaries of personnel involved in transporting clients to and from the facility.

vii. Salaries, Other Administrative **C**gross salaries of other administrative personnel including bookkeepers, receptionists, administrative assistants and other office and clerical personnel.

viii. Salaries, Owner or Owner/Administrator **C**gross salaries of all owners of the facility that are paid through the facility.

ix. Payroll Taxes **C**cost of employer's portion of Federal Insurance Contribution Act (FICA), Federal Unemployment Tax Act (FUTA), State Unemployment Tax Act (SUTA), and Medicare tax for administrative and operating employees.

x. Group Insurance, **A** **O** **C**cost of employer's contribution to employee health, life, accident and disability insurance for administrative and operating employees.

xi. Pensions, **A** **O** **C**cost of employer's contribution to employee pensions for administration and operating employees.

xii. Uniform Allowance, **A** **O** **C**employer's cost of uniform allowance and/or uniforms for administration and operating employees.

xiii. Worker's Compensation, **A** **O** **C**cost of worker's compensation insurance for administration and operating employees.

xiv. Contract, Dietary **C**cost of dietary services and personnel hired through contract that are not employees of the facility.

xv. Contract, Housekeeping **C**cost of housekeeping services and personnel hired through contract that are not employees of the facility.

xvi. Contract, Laundry **C**cost of laundry services and personnel hired through contract that are not employees of the facility.

xvii. Contract, Maintenance **C**cost of maintenance services and persons hired through contract that are not employees of the facility.

xviii. Consultant Fees, Dietician **C**fees paid to consulting registered dietitians.

xix. Accounting Fees **C**fees incurred for the preparation of the cost report, audits of financial records, bookkeeping, tax return preparation of the adult day health care facility and other related services excluding personal tax planning and personal tax return preparation.

xx. Amortization Expense, Non-Capital **C**costs incurred for legal and other expenses when organizing a corporation must be amortized over a period of 60 months. Amortization of costs attributable to the negotiation or settlement of the sale or purchase of any capital asset on or after July 18, 1984, whether by acquisition or merger, for which any payment has previously been made are non-allowable costs. If allowable cost is reported on this line, an

amortization schedule must be submitted with the cost report.

xxi. Bank Service Charges—fees paid to banks for service charges, excluding penalties and insufficient funds charges.

xxii. Dietary Supplies—costs of consumable items such as soap, detergent, napkins, paper cups, straws, etc., used in the dietary department.

xxiii. Dues—dues to one organization are allowable.

xxiv. Educational Seminars and Training—the registration cost for attending educational seminars and training by employees of the facility and costs incurred in the provision of in-house training for facility staff, excluding owners or administrative personnel

xxv. Housekeeping Supplies—cost of consumable housekeeping items including waxes, cleaners, soap, brooms and lavatory supplies.

xxvi. Insurance, Professional Liability and Other—includes the costs of insuring the facility against injury and malpractice claims and the cost of vehicle insurance.

xxvii. Interest Expense, Non-Capital and Vehicles—interest paid on short term borrowing for facility operations and on vehicle loans.

xxviii. Laundry Supplies—cost of consumable goods used in the laundry including soap, detergent, starch and bleach.

xxix. Legal Fees—only actual and reasonable attorney fees incurred for non-litigation legal services related to patient care are allowed.

xxx. Linen and Laundry Supplies—cost of sheets, blankets, pillows, gowns, underpads and diapers (reusable and disposable) and consumable goods used in the laundry including soap, detergent, starch and bleach.

xxxi. Miscellaneous—costs incurred in providing facility services that cannot be assigned to any other line item on the cost report. Examples of miscellaneous expense are small equipment purchases, all employees' physicals and shots, nominal gifts to all employees, such as a turkey or ham at Christmas, allowable advertising, and flowers purchased for the enjoyment of the clients. Items reported on this line must be specifically identified.

xxxii. Management Fees and Home Office Costs—the cost of purchased management services or home office costs incurred that are allocable to the provider. Costs included that are for related management/home office costs must also be reported on a separate cost report that includes an allocation schedule.

xxxiii. Non-Emergency Medical Transportation—the cost of purchased non-emergency medical transportation services including, but not limited to, payments to employees for use of personal vehicle, ambulance companies and other transportation companies for transporting patients of the facility.

xxxiv. Office Supplies and Subscriptions—cost of consumable goods used in the business office such as pencils, paper and computer supplies; cost of printing forms and stationery including but not limited to, nursing and medical forms, accounting and census forms, charge tickets, facility letterhead and billing forms; cost of subscribing to newspapers, magazines and periodicals.

xxxv. Postage—cost of postage, including stamps, metered postage, freight charges and courier services.

xxxvi. Repairs and Maintenance—supplies and services, including electricians, plumbers, extended service agreements, etc., used to repair and maintain the facility building, furniture and equipment except vehicles. This includes computer software maintenance.

xxxvii. Taxes and Licenses—the cost of taxes and licenses paid that are not included on any other line on Form 6. This includes tags for vehicles, licenses for facility staff (including nurse aide re-certifications) and buildings.

xxxviii. Telephone and Communications—cost of telephone services, WATS lines and fax services.

xxxix. Travel—cost of travel (airfare, lodging, meals, etc.) by the administrator and other authorized personnel to attend professional and continuing educational seminars and meetings or to conduct facility business. Commuting expenses and travel allowances are not allowable.

xl. Vehicle Expenses—vehicle maintenance and supplies, including gas and oil.

xli. Utilities—cost of water, sewer, gas, electric, cable TV and garbage collection services.

xlii. Allocated Costs, Hospital Based—costs that have been allocated through the step-down process from a hospital as administrative and operating costs.

xliii. Total Administrative and Operating Costs

d. Property and Equipment

i. Amortization Expense, Capital—legal and other costs incurred when financing the facility must be amortized over the life of the mortgage. Amortization of goodwill is not an allowable cost. Amortization of costs attributable to the negotiation or settlement of the sale or purchase of any capital asset on or after July 18, 1984, whether by acquisition or merger, for which any payment has previously been made are non-allowable costs. If allowable cost is reported on this line, an amortization schedule must be submitted with the cost report.

ii. Depreciation—depreciation on the facility's buildings, furniture, equipment, leasehold improvements and land improvements.

iii. Interest Expense, Capital—interest paid or accrued on notes, mortgages, and other loans, the proceeds of which were used to purchase the facility's land, buildings and/or furniture and equipment, excluding vehicles.

iv. Property Insurance—cost of fire and casualty insurance on facility buildings and equipment, excluding vehicles. Hospital-based facilities and state-owned facilities must allocate property insurance based on the number of square feet.

v. Property Taxes—taxes levied on the facility's buildings and equipment, excluding vehicles. Hospital based facilities and state owned facilities must allocate property insurance based on the number of square feet.

vi. Rent, Building—cost of leasing the facility's real property.

vii. Rent, Furniture and Equipment—cost of leasing the facility's furniture and equipment, excluding vehicles.

viii. Lease, Automotive—cost of leases for vehicles used for patient care. A mileage log must be maintained. If a leased vehicle is used for both patient care and personal purposes, cost must be allocated based on the mileage log.

ix. Allocated Costs, Hospital Based Costs that have been allocated through the step-down process from a hospital or state institution as property costs when those costs include allocated overhead.

x. Total Property and Equipment.

11. Non-Allowable Costs. Costs that are not based on the reasonable cost of services covered under Medicare and are not related to the care of beneficiaries are considered non-allowable costs.

a. Reasonable cost does not include the following:

i. costs not related to client care;

ii. costs specifically not reimbursed under the program;

iii. costs that flow from the provision of luxury items or services (items or services substantially in excess or more expensive than those generally considered necessary for the provision of the care);

iv. costs that are found to be substantially out of line with other centers that are similar in size, scope of services and other relevant factors;

v. cost exceeding what a prudent and cost-conscious buyer would incur to purchase the goods or services.

b. General non-allowable costs:

i. services for which Medicaid recipients are charged a fee;

ii. depreciation of non-client care assets;

iii. services that are reimbursable by other state or federally funded programs;

iv. goods or services unrelated to client care;

v. unreasonable costs.

c. Specific Non-Allowable Costs (This is not an all inclusive listing)

i. Advertising-costs of advertising to the general public that seeks to increase patient utilization of the ADHC center.

ii. Bad Debts-accounts receivable that are written off as not collectible.

iii. Contributions-amounts donated to charitable or other organizations.

iv. Courtesy allowances.

v. Director's fees.

vi. Educational costs for clients.

vii. Gifts.

viii. Goodwill or interest (debt service) on goodwill.

ix. Costs of income producing items such as fund raising costs, promotional advertising, or public relations costs and other income producing items.

x. Income taxes, state and federal taxes on net income levied or expected to be levied by the federal or state government.

xi. Insurance, Officers-Cost of insurance on officers and key employees of the center when the insurance is not provided to all employees.

xii. Judgments or settlements of any kind.

xiii. Lobbying costs or political contributions, either directly or through a trade organization.

xiv. Non-client entertainment.

xv. Non-Medicaid Related Care Costs-Costs allocated to portions of a facility that are not licensed as the reporting ADHC or are not certified to participate in Title XIX.

xvi. Officers' life insurance with the center or owner as beneficiary.

xvii. Payments to the parent organization or other related party.

xviii. Penalties and Sanctions-Penalties and sanctions assessed by the Centers for Medicare and Medicaid Services, the Internal Revenue Services or the State Tax Commission; insufficient funds charges.

xix. Personal comfort items.

xx. Personal use of vehicles.

C. Provider Reimbursement

1. Cost Determination Definitions

a. Indices

i. CPI, All Items-Cthe Consumer Price Index for All Urban Consumers-South Region (All items line) as published by the United States Department of Labor.

ii. CPI, Medical Services-Cthe Consumer Price Index for All Urban Consumers-South Region (Medical Services line) as published by the United States Department of Labor.

b. Adjustment Factors-Cthe adjustment factor is computed by dividing the value of the index for December of the year preceding the rate year by the value of the index one year earlier (December of the second preceding year).

c. Rate Year-Cthe rate year is the period from July 1 through June 30 of the next calendar year. It corresponds with the state fiscal year.

d. Base Rate-Cthe base rate is the rate calculated in accordance with §10939.C.2.e. plus any base rate adjustments granted in accordance with §10939.C.2.g. of this section which are in effect at the time of calculation of new rates or adjustments.

e. Base Rate Components-Cthe base rate is the summation of the following:

i. Direct Care.

ii. Care Related Costs.

iii. Administrative and Operating Costs.

iv. Property Costs.

2. Rate Determination

a. Calculation of Base Rate-Crates are calculated from cost report data. Allowable costs include those costs incurred by providers to conform to state licensure and federal certification standards. General cost principles are applied during the desk review and audit process to determine allowable costs. These general cost principles include determining whether the cost is ordinary, necessary, and related to delivery of care; the cost is what a prudent and cost conscious business person would pay for the specific goods or services in the open market in an arm's length transaction; and the cost is for goods or services actually provided to the center. Through the desk review and audit process, adjustments and/or disallowances may be made to a providers reported costs. "HIM-15," the Medicare Provider Reimbursement Manual, is the final authority for allowable costs unless the Louisiana Department of Health and Hospitals has set a more restrictive policy.

b. Audited and desk reviewed costs for each component are ranked by facility to determine the value of each component at the median.

c. The median costs for each component are multiplied in accordance with §10939.A.4. then by the appropriate economic adjustment factors for each successive

year to determine base rate components. For subsequent years, the components thus computed become the base rate components to be multiplied by the appropriate economic adjustment factors, unless they are adjusted as provided in §10939.C.2.g. Application of an inflationary adjustment to reimbursement rates in non-rebasing years shall apply only when the state legislature allocates funds for this purpose. The inflationary adjustment shall be made prorating allocated funds based on the weight of the rate components.

d. The inflated median shall be increased to establish the base rate component as follows.

i. The inflated direct care median shall be multiplied times 115 percent to establish the direct care base rate component.

ii. The inflated care related median shall be multiplied times 105 percent to establish the care related base rate component.

iii. The administrative and operating median shall be multiplied times 105 percent to establish the administrative and operating base rate component.

e. At least every three years, audited and desk reviewed cost report items will be compared to the rate components calculated for the cost report year to insure that the rates remain reasonably related to costs.

f. Formulae. Each cost component shall be calculated as follows.

i. Direct Care Cost Component. Direct care per diem costs from all acceptable full year cost reports shall be arrayed from lowest to highest. The cost of the center at the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. The median cost shall be trended forward using the Consumer Price Index for Medical Services. The direct care rate component shall be set at 115 percent of the inflated median.

ii. Care Related Cost Component. Care related per diem costs from all acceptable full year cost reports shall be arrayed from lowest to highest. The cost of the center at the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. The median cost shall be trended forward using the Consumer Price Index for All Items. The care related rate component shall be set at 105 percent of the inflated median.

iii. Administrative and Operating Cost Component. Administrative and operating per diem cost from all acceptable full year cost reports shall be arrayed from lowest to highest. The cost of the center at the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. The median cost shall be trended forward by dividing the value of the CPIC All Items index for December of the year preceding the rate year by the value of the index for the December of the year preceding the cost report year. The administrative and operating rate component shall be set at 105 percent of the inflated median.

iv. Property Cost Component. The property per diem costs from all acceptable full year cost reports shall be arrayed from lowest to highest. The cost of the center at the midpoint of the array shall be the median

cost. This will be the rate component. Inflation will not be added to property costs.

g. Parameters and Limitations

i. Method of Calculation. All calculations described in this methodology shall be carried out algebraically.

ii. Rounding. In all calculations, the base rate and the base rate components will be rounded to the nearest one hundredth of a dollar (cent) and the economic adjustment factors will be rounded to four decimal places.

h. Interim Adjustments to Rates. If an unanticipated change in conditions occurs that affects the cost of at least 50 percent of the enrolled ADHC providers by an average of 5 percent or more, the rate may be changed. The Bureau will determine whether or not the rates should be changed when requested to do so by 25 percent or more of the enrolled providers, or an organization representing at least 25 percent of the enrolled providers. The burden of proof as to the extent and cost effect of the unanticipated change will rest with the entities requesting the change. The Bureau, however, may initiate a rate change without a request to do so. Changes to the rates may be one of two types; temporary adjustments or base rate adjustments as described below.

i. Temporary Adjustment. Temporary adjustments do not affect the base rate used to calculate new rates.

(a). Changes reflected in the economic indices. Temporary adjustments may be made when changes which will eventually be reflected in the economic indices, such as a change in the minimum wage, a change in FICA or a utility rate change, occur after the end of the period covered by the indices, i.e., after the December preceding the rate calculation. Temporary adjustments are effective only until the next annual base rate calculation.

(b). Lump Sum Adjustments. Lump sum adjustments may be made when the event causing the adjustment requires a substantial financial outlay, such as a change in certification standards mandating additional equipment or furnishings. Such adjustments shall be subject to the Bureau's review and approval of costs prior to reimbursement.

ii. Base Rate Adjustment. A base rate adjustment will result in a new base rate component value that will be used to calculate the new rate for the next fiscal year. A base rate adjustment may be made when the event causing the adjustment is not one that would be reflected in the indices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 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 28:

Family Impact Statement

1. The Effect on the Stability of the Family. None.
2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. None.
3. The Effect on the Functioning of the Family. None.
4. The Effect on Family Earnings and Family Budget. None.
5. The Effect on the Behavior and Personal Responsibility of Children. None.

6. The Ability of the Family or a Local Government to Perform the Function as Conatined in the Proposed Rule. None.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, August 27, 2002 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Adult Day Health Care
Services C Prospective Payment System C Reimbursement
Methodology**

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

It is anticipated that the implementation of this proposed rule will increase state program costs by approximately \$10,721 for SFY 2002-03, \$20,026 for SFY 2003-04, and \$20,628 for SFY 2004-05. It is anticipated that \$1,998 (\$999 SGF and \$999 FED) will be expended in SFY 2002-2003 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$24,846 for SFY 2002-03, \$49,126 for SFY 2003-04, and \$50,599 for SFY 2004-05.

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

It is anticipated that the implementation of this proposed rule will increase payments to providers of Adult Day Health Care services by approximately \$33,569 for SFY 2002-03, \$69,152 for SFY 2003-04, and \$71,227 for SFY 2004-05.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben Beardon
Director
0207#055

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Facility Need Review
Emergency Community Home Bed Pool
(48:I.12501 and 12503)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend the Facility Need Review regulations as authorized by R.S. 40:2116. This proposed Rule is amended in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals adopted a rule governing Facility Need Review in August 1995 (*Louisiana Register*, Volume 21, Number 8). The August 1995 rule was amended in July 1999 to adopt new provisions governing the relocation of nursing facility beds (*Louisiana Register*, Volume 25, Number 7). The 2001 Appropriations Bill, Act 12 of the 2001 Regular Session, authorized the department to transfer 50 beds currently licensed to state developmental centers to non-state operated community homes for the mentally retarded for emergency situations in accordance with a plan to be developed by the department. Accordingly, by Emergency Rule enacted in August 2001, the department amended the August 1995 and July 1999 rules governing Facility Need Review to create the Emergency Community Home Bed Pool, consisting of 50 Medicaid enrolled beds transferred from state developmental centers, to be made available for transfer to non-state operated community homes in order to address emergency situations on a case-by-case basis (*Louisiana Register*, Volume 27, Number 8). The provisions of the August 2001 Emergency Rule were continued in effect by subsequent emergency rules enacted in November 2001 (*Louisiana Register*, Volume 27, Number 11) and March 2002 (*Louisiana Register*, Volume 28, Number 3).

By June 30, 2002, the Secretary of the department had authorized the transfer of some, but not all, of the beds in the Emergency Community Home Bed Pool to nonstate-operated community homes. Since the provisions of the 2001 Appropriations Bill have not been continued in effect beyond June 30, 2002 by any subsequent legislation, the secretary of the department cannot authorize the transfer of any additional beds from the pool after that date. Therefore, the department proposes to amend LAC48:I.12501-12503 include conditions to be imposed upon the use of beds which have been authorized to be transferred from the Emergency Community Home Bed Pool on or before June 30, 2002. By the Emergency Rule effective June 30, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repealed the

Emergency Rule published in the March 20, 2002 *Louisiana Register* and amended the August 20, 1995 and July 20, 1999 rules on Facility Need Review in order to impose conditions upon the use of beds which have been authorized to be transferred from the Emergency Community Home Bed Pool on or before June 30, 2002 under the provisions of the Emergency Rules contained in the August 20, 2001, November 20, 2001, and March 20, 2002 *Louisiana Registers*.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Title 48

PUBLIC HEALTHC GENERAL

Part I. General Administration

Subpart 5. Health Planning

Chapter 125. Facility Need Review

§12501. Introduction

A. ...

B. Definitions

*Emergency Community Home Bed Pool*Ca pool consisting of approved beds which have been transferred from state developmental centers and which are made available for transfer to nonstate-operated community homes in order to address emergency situations on a case-by-case basis.

C. - F.6. ...

7. Beds may not be disenrolled, except as provided under the alternate use policy, under the Emergency Community Home Bed Pool exception, and during the 120-day period to have beds relicensed or recertified. The approval for beds disenrolled, except as indicated, will automatically expire.

F.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:806 (August 1995), amended LR 25:1250 (July 1999), LR 28:

§12503. Determination of Bed Need

A. - A.6.d. ...

7. Emergency Community Home Bed Pool Exception

a. The Emergency Community Home Bed Pool consists of all Medicaid enrolled beds which have been authorized to be transferred from state developmental centers to nonstate-operated community homes on or before June 30, 2002, in order to address emergency situations on a case-by-case basis.

b. Effective July 1, 2002, the Secretary of the Department may not authorize the transfer of any beds from the Emergency Community Home Bed Pool to a nonstate operated community home unless the bed had been authorized to be transferred to a nonstate operated community home on or before June 30, 2002 and was subsequently transferred from that facility back to the pool pursuant to §12503.7.f.

c. Emergency situations which may be addressed through the use of the Emergency Community Home Bed

Pool shall include, but not be limited to, situations in which it is difficult or impossible to find a placement for an individual in an ICF/MR because of one of the following:

i. an inadequate number of available ICF/MR beds in the service area to serve the needs of the mentally retarded/developmentally disabled population in general;

ii. an inadequate number of available ICF/MR beds in the service area to serve the needs of the mentally retarded/developmentally disabled population who also have physical or behavioral disabilities or difficulties;

iii. an inadequate number of available ICF/MR beds in the service area to provide for the transition of individuals from residing in large residential facilities to residing within the community.

d. Any agency or individual who becomes aware of an actual or potential emergency situation should inform the Office for Citizens with Developmental Disabilities (OCDD). The OCDD shall submit to the Facility Need Review Program its recommendations for emergency placement. The recommendations from the OCDD shall include identification of the individual in need of emergency placement, the individual's needs, the service area in which transfer from the Emergency Community Home Bed Pool is requested, and the names of one or more existing community homes that would be appropriate for emergency placement.

e. To be eligible for transfer of one or more beds from the Emergency Community Home Bed Pool, a community home must meet the following requirements, based on documentation provided by the Health Standards Section.

i. The facility must comply with the physical accessibility requirements of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973, or if it does not comply with those requirements, it must have a written plan to be in compliance within 24 months.

ii. The facility can not have been on a termination track or have had any repeat deficiencies within the last 12 months.

iii. The facility must meet all square footage requirements, *Life Safety Code* requirements and general construction requirements of 42 CFR Subpart D, Conditions of Participation for ICF/MR, as well as Standards for Payment, LAC 50:II.Chapter 103 and Louisiana Licensing Requirements for Intermediate Care Facilities.

iv. The facility must ensure the provision of sufficient staffing and behavior modification plans to meet the needs of current residents and prevent clients residing in the facility from being adversely affected by the emergency admission.

f. The Secretary shall authorize the transfer of the bed to be used at the nonstate-operated community home, and upon the enrollment of the transferred bed at that community home, it shall be permanently transferred to that facility, subject to the following conditions.

i. Once the bed is no longer needed to remedy the emergency situation, the facility shall continue to make it available for subsequent emergency placements, although it may be used temporarily to serve other individuals until it is needed for a new emergency placement.

ii. The facility shall make the bed available for a new emergency placement within 72 hours after receiving a request for such placement from the Department as set forth

herein. If the facility does not comply with such a request, the Secretary may, at his discretion, transfer the bed from the facility back to the Emergency Community Home Bed Pool.

g. Beds which have been placed in the Emergency Community Home Bed Pool shall be exempt from the bed need criteria and the requirements for requests for proposals which are normally applicable to ICF/MRs.

h. For purposes of the Emergency Community Home Bed Pool exception, the definition of "service area" provided in §12503.A.1 is applicable.

B. - B.11. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:808 (August 1995), amended LR 28:

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, August 27, 2002 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time all interested persons will be afforded an opportunity to submit data, views, or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Facility Need Review
Emergency Community Home Bed Pool**

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

It is anticipated that \$486 (\$243 SGF and \$243 FED) will be expended in SFY 2002-03 for the state's administrative expense for promulgation of this proposed Rule and the final Rule. It is anticipated that the implementation of this proposed Rule will have no programmatic fiscal impact for SFY 2003-04, and 2004-05.

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

It is anticipated that the implementation of this proposed Rule will not impact federal revenue collections.

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

Implementation of this proposed Rule will not have estimable costs and/or economic benefits for directly affected persons or non governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden
Director
0207#056

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

**Pharmacy Benefits Management Program
Prior Authorization Process**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. Prior law, R.S. 46:153.3, authorized coverage and reimbursement of prescription drugs in the Medicaid Program and established the Medicaid Drug Program Committee. R.S. 46:153.3.B and C allowed the Department of Health and Hospitals to limit reimbursement for multi-source prescription drugs in accordance with state and federal law; but mandated the department to provide reimbursement for any drug prescribed by a physician that, in his professional judgment and within the lawful scope of his practice, was considered appropriate for the diagnosis and treatment of the patient; and also prohibited the department from establishing a drug formulary that restricted, by any prior or retroactive approval process, a physician's ability to treat a patient with a prescription drug that had been approved and designated as safe and effective by the Food and Drug Administration.

In recognition of the need to ensure that the state delivers a medical assistance prescription drug program which is both cost effective and prudently administered, the Louisiana Legislature enacted Act 395 of the 2001 Regular Session to amend R.S. 46:153.3.B.(2)(a) which states "The Department may establish...or any other process or combination of processes that prove to be cost-effective in the Medical Assistance Program." In addition, the Act created the Medicaid Pharmaceutical and Therapeutics Committee and abolished the Medicaid Drug Program Committee.

Until Act 395 was enacted, the department was prohibited from utilizing a prescription prior authorization process within the Louisiana Medicaid Program. With the passage of this legislation, the restriction was removed and the department adopted a rule to implement a prior authorization process with a preferred drug list (PDL) for certain designated drugs in selected therapeutic classes covered under the Pharmacy Benefits Management Program (*Louisiana Register*, Volume 28, Number 5).

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing implements a prior authorization process with a preferred drug list for certain designated drugs covered under the Medicaid

Pharmacy Benefits Management Program. The following provisions shall govern coverage for prescribed medications and/or supplies.

A. General Provisions

The medication must be prescribed by a practitioner who is authorized to prescribe under state law. The National Drug Code (NDC) must be shown on each pharmacy claim form for reimbursement of prescription drugs subject to rebates from manufacturers as mandated by federal law and regulations.

B. Covered Drugs

Coverage of drugs shall be limited to specific drug products authorized for reimbursement by therapeutic category and listed by generic name, strength/unit, NDC, and brand name. Those drug products subject to mandatory coverage as a result of a rebate agreement with the federal government will be covered until written notice is received from the Centers for Medicare and Medicaid Services that coverage will be terminated. Providers will be given prior notice of termination of coverage as required under federal regulations.

C. Prior Authorization with a Preferred Drug List

As authorized by R.S. 46:153.3.B.(2)(a) and pursuant to 42 U.S.C. s1396r-8, a prior authorization process is established which utilizes a preferred drug list (PDL) for selected therapeutic classes. Drugs included on the PDL are automatically prior authorized. Drugs in those classes that are not included on the PDL shall require prescribers to obtain prior authorization. Providers will be notified of the drugs selected for placement on the PDL by selected therapeutic classes prior to implementation of the prior authorization process and as additional drugs are subsequently added to the list. Lists of covered drug products, including those that require prior authorization, will be maintained in either the Prescription Drug Services Manual, other designated service provider manuals, on the Louisiana Medicaid web site or provider notices.

The prior authorization process provides for a turn-around response within 24 hours of receipt of a prior authorization request by either telephone, mail or electronic communication. In emergency situations, providers may dispense at least a 72 hour supply of medication as mandated by R.S. 46:153.3.B.(2)(a) and pursuant to 42 U.S.C. s1396r-8.

The Pharmaceutical and Therapeutics Committee will make recommendations to the Department regarding drugs to be considered for prior authorization. The composition of and appointment to the Pharmaceutical and Therapeutics Committee complies with R.S. 46:153.3.D and 42 U.S.C.s1396r-8.

D. Drugs Excluded from Coverage

As provided by Section 1927(d)(2) of the Social Security Act, the following drugs are excluded from program coverage:

1. experimental drugs;
2. anorexics;
3. cough and cold preparations;
4. cosmetic drugs;
5. compounded prescriptions (mixtures of two or more ingredients);

6. medications which are included in the reimbursement to a facility, i.e. hospitals, skilled nursing facility for recipients receiving benefits under Part A of Title XVIII, mental hospitals, or some other nursing facilities;

7. non-legend drugs with some exceptions;
8. fertility drugs when used for fertility treatment;
9. vaccines covered in other programs; and
10. DESI Drugs (see E. below).

E. DESI Drugs

Those drugs that are subject to a Notice of Opportunity for Hearing (NOOH), as prescribed by Section 1927(k)(2)(A) of the Social Security Act, for which the Food and Drug Administration has proposed to withdraw from the market because they are less than effective or identical, related, or similar drugs, and are identified as DESI ineffective drugs shall be excluded from coverage.

Implementation of this proposed Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, August 27, 2002 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, Louisiana. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Pharmacy Benefits Management
ProgramC Prior Authorization Process**

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

It is anticipated that the implementation of this proposed rule (including the administrative costs of professional services contracts, staffing, and equipment relative to initial start-up as well as programmatic savings) will increase state fund expenditures by approximately \$1,420,775 for SFY 2001-02. It is anticipated that the implementation of this proposed Rule will decrease state fund expenditures by approximately \$13,753,029 for SFY 2002-03, \$16,336,328 for SFY 2003-04, and \$19,351,200 for SFY 2004-05. It is anticipated that \$270 (\$135 SGF and \$135 FED) will be expended for the states administrative expense for promulgation of this proposed Rule and the final Rule in SFY 2002-03.

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

It is anticipated that the implementation of this proposed Rule will increase federal revenue collections by approximately \$2,793,064 for 2001-02 and will decrease federal revenue collections by approximately \$44,233,142 for SFY 2002-03, \$50,540,496 for SFY 2003-04, and \$57,943,187 for SFY 2004-05.

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

Implementation of this proposed Rule will establish a prior authorization process for those designated prescription drugs that are not included on the preferred drug list (PDL) for selected therapeutic classes of drugs. This proposed Rule will decrease reimbursement to pharmacies by approximately \$1,496,100 for SFY 2001-02, \$66,568,790 for SFY 2002-03, \$75,422,440 for SFY 2003-04, and \$85,853,624 for SFY 2004-05. It is anticipated that the implementation of this proposed Rule will not have an estimated cost or economic benefit to Medicaid recipients.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment resulting from implementation of this proposed Rule.

Ben A. Bearden
Director
0207#057

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Office of Public Health**

Interim Safe Drinking Water Program
Enhanced Surface Water Treatment
(LAC 51:XII.Chapters 1-11)

Under the authority of R.S. 40:4 and 40:5, 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 certain sections of Chapters 1 and 3 of Part XII (Water Supplies) of the Louisiana State Sanitary Code (LAC 51:XII). In addition, LAC 51:XII.Chapter 11 will be amended and renumbered in its entirety since new sections are proposed to be inserted. These amendments are necessary in order that DHH-OPH may be able to maintain primacy (primary enforcement authority) from the United States Environmental Protection Agency (USEPA) over public water systems within Louisiana. USEPA requires state primacy agencies to adopt state rules and regulations which are no less stringent than the federal Safe Drinking Water Act's (42 U.S.C. §300f, et seq.) primary implementing regulations (40 CFR Part 141).

This rule is specifically necessary due to a federal rule promulgated by the USEPA in the *Federal Register* dated December 16, 1998 (Volume 63, Number 241, pages 69477 through 69521), which is entitled "National Primary Drinking Water Regulations: Interim Enhanced Surface Water Treatment; Final Rule". In addition, technical corrections to the federal Interim Enhanced Surface Water Treatment Rule (IESWTR) were promulgated by the USEPA in the *Federal Register* dated January 16, 2001 (Volume 66, Number 10, pages 3769 through 3780) and in the *Federal Register* dated February 12, 2001 (Volume 66, Number 29, page 9903). The compliance date for public water systems subject to the federal IESWTR was January 1, 2002; therefore, the reason for this proposed amendment to Part XII (Water Supplies) of the Louisiana State Sanitary Code is to adopt a state rule which is at least equivalent to the federal rule. The proposed rule is applicable to public water systems

whose source of water supply is surface water or ground water under the direct influence of surface water (GWUDISW). The proposed rule particularly, but not exclusively, amends DHH-OPH's existing Surface Water Treatment Rule (SWTR) which was originally promulgated on March 20, 1991 [(formerly Appendix D of Chapter XII) now LAC 51:XII.Chapter 11]. It also particularly, but not exclusively, applies to those public water systems serving at least 10,000 individuals and whose source of water supply is surface water or GWUDISW.

The general purposes of the proposed rule are to improve control of microbial pathogens, including specifically the protozoan *Cryptosporidium*, in drinking water and to address risk trade-offs with disinfection byproducts. Key provisions established in the proposed rule include: 2-log (99 percent) *Cryptosporidium* removal requirements for systems that filter; strengthened combined filter effluent turbidity performance standards [generally, from 0.5 Nephelometric Turbidity Units (NTUs) at least 95 percent of the time per month down to 0.3 NTUs at least 95 percent of the time per month]; individual filter turbidity monitoring including response actions based upon certain individual filter turbidity exceedances; disinfection profiling provisions to assure continued levels of microbial protection; and, inclusion of *Cryptosporidium* in the definition of GWUDISW and in the watershed control requirements for unfiltered GWUDISW systems.

The DHH-OPH believes that implementation of the provisions of the proposed rule will significantly reduce the level of *Cryptosporidium* in finished drinking water supplies through improvements in filtration. It is also believed that the rule provisions will also reduce the likelihood of the occurrence of outbreaks of cryptosporidiosis by providing a larger margin of safety against such outbreaks in some systems. In addition, the filtration provisions of the rule are expected to increase the level of protection from exposure to other waterborne pathogens, e.g., *Giardia* (or other protozoan, bacterial, or viral pathogens).

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

**Title 51
PUBLIC HEALTH SANITARY CODE
Part XII. Water Supplies**

**Chapter 1. General
§101. Definitions**

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

Substantial Renovation Instances when new water treatment units are added to existing water treatment plants or non-serviceable portions of existing water treatment units are reconstructed. In addition, alterations or changes which increase plant capacity are included in this term.

AUTHORITY NOTE: The first source of authority for promulgation of the Sanitary Code is in R.S. 36:258 (B), with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with R.S. 36:254 (B)(7), R.S. 40:4 (A)(8), R.S. 40:5 (2)(3)(5)(6)(17)(20), and R.S. 40:1148.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1318 (June 2002), amended LR 28:

Chapter 3. Water Quality Standards

§323. Filtration

A. All potable water derived from surface waters shall be filtered before distribution. Pressure filters shall not be used as the primary turbidity removal mechanism in the filtration of surface waters. On a case-by-case basis, DHH may allow pressure filters to be used as the primary turbidity removal mechanism in systems identified as being a groundwater under the direct influence of surface water (GWUDISW) system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (5)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1322 (June 2002), amended LR 28:

§355. Mandatory Disinfection

A. Routine, continuous disinfection is required of all public water systems other than those under §361.A of this Part. Where continuous chlorination methods are used, the following minimum concentration of free chlorine residual shall be provided leaving the plant:

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

1. This table does not apply to systems using chloramines.

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

C. Public water systems which use surface water or ground water under the direct influence of surface water shall meet the requirements of applicable sections of the Louisiana Interim Enhanced Surface Water Treatment Rule (LAC 51:XII.Chapter 11) as it pertains to CT and *Giardia*, *Cryptosporidium*, and virus removal/inactivation/disinfection requirements.

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (5)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1326 (June 2002), amended LR 28:

Chapter 11. Interim Enhanced Surface Water Treatment Rule

Subchapter A. General Requirements and Definitions

§1101. General Requirements

A. For public water systems using surface water or groundwater under the direct influence of surface water

(GWUDISW), this Chapter establishes or extends treatment technique requirements in lieu of maximum contaminant levels for the following microbial contaminants: *Giardia lamblia* (cysts), viruses, heterotrophic plate count bacteria, *Legionella*, turbidity, and (for public water systems using surface water or GWUDISW as its source of water supply and serving at least 1,000 individuals) *Cryptosporidium* oocysts.

B. Each supplier using an approved surface water as its source of water supply shall provide multibarrier treatment necessary to reliably protect users from the adverse health effects of microbiological contaminants and to comply with the requirements and performance standards prescribed in this Chapter.

C. Unless the Department of Health and Hospitals, hereinafter referred to as DHH, determines that a shorter time limit is necessary due to an emergency situation or the finding of a significant deficiency, a supplier shall, within 90 days from the date of notification by DHH that a treatment plant using surface water or GWUDISW as its source of water supply does not meet the requirements of this Appendix, submit for DHH approval a plan and schedule to bring its system into compliance.

D. If the supplier disagrees with the DHH's notification issued pursuant to §1101.C of this Part, then the supplier shall submit in writing reasons and evidence for its disagreement as soon as possible but not later than 30 days from the receipt of the notification unless an extension of time to meet this requirement is requested and granted by the DHH. In cases when DHH's notification involves an emergency situation or the finding of a significant deficiency, the supplier shall submit in writing reasons and evidence for its disagreement as soon as possible but not later than 14 days from the receipt of such notification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1335 (June 2002), amended LR 28:

§1103. Definition of Terms

A. Words Not Defined. Words not defined in this Chapter shall have the meanings stated in Section 101 of this Part or other Parts of the Louisiana State Sanitary Code. When words not defined in this Chapter are defined in both Section 101 of this Part and in another Part of the Louisiana State Sanitary Code, the definition contained within §101 of this Part shall be given preference as it pertains to water supplies. Words not defined in any of these source documents shall have the meanings stated in the Merriam-Webster's Collegiate Dictionary-Tenth Edition, as revised.

B. Definitions. Definitions contained in §101 of this Part shall also apply to this Appendix except where the following special definitions apply.

Approved Surface Water Ca surface water or GWUDISW that has received permit approval from the DHH as a source of water supply for a public water system.

Best Available Technology Cfor the purpose of this Chapter in relation to the treatment of surface water, means conventional filtration treatment which conforms with all of the requirements of this Appendix.

Calibration dra Cto standardize [adjust the instrument response to a National Institute of Standards and Technology (NIST) traceable standard] a disinfectant residual analyzer

(such as, but not limited to, a bench top or a continuous monitoring disinfectant residual analyzer using colorimetry or spectrophotometry) by determining the deviation from a NIST traceable standard so as to ascertain and implement the proper correction factors in an attempt to obtain accurate and reliable sample results.

Calibration, to standardize (adjust the instrument response to a turbidity primary standard) a turbidimeter (such as a bench top or continuous monitoring turbidimeter) by determining the deviation from a turbidity primary standard so as to ascertain and implement the proper correction factors in an attempt to obtain accurate and reliable sample results.

Certified Operator for the purpose of this Chapter, the individual, as examined by the Committee of Certification and as approved by the State Health Officer, meeting all requirements of State Law and regulation and found competent to operate a treatment plant for a public water system which utilizes surface water or GWUDISW as its source of water supply.

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

Comprehensive Performance Evaluation (CPE) a thorough review and analysis of a treatment plant's performance-based capabilities and associated administrative, operation, and maintenance practices. It is conducted to identify factors that may be adversely impacting a plant's capability to achieve compliance and emphasizes approaches that can be implemented without significant capital improvements. It consists of at least the following components: assessment of plant performance; evaluation of major unit processes; identification and prioritization of performance limiting factors; assessment of the applicability of comprehensive technical assistance; and, preparation of a CPE report.

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

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

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

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

Disinfectant Contact Time ("T" in CT calculations) the time in minutes that it takes for water to move from the point of disinfectant application or a previous point of disinfectant residual measurement to a point before or at the point where residual disinfectant concentration is measured. The point of measurement shall be before or at the first customer. Disinfectant contact time in pipelines is calculated by

dividing the internal volume of the pipe by the flow rate through the pipe. Disinfectant contact time with mixing basins and storage reservoirs is determined by tracer studies or an equivalent demonstration to the DHH.

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

Disinfection Profile a summary of daily *Giardia lamblia* inactivation through the treatment plant. For any system that uses either chloramines or ozone for primary disinfection, this term shall additionally include a summary of daily virus inactivation through the treatment plant.

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

Filter Profile a graphical representation of individual filter performance, based on continuous turbidity measurements versus time for an entire filter run, from startup to backwash inclusively, that includes an assessment of filter performance while another filter is being backwashed.

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

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

Groundwater Under the Direct Influence of Surface Water (GWUDISW) any water beneath the surface of the ground with significant occurrence of insects or other macroorganisms, algae, or large diameter pathogens such as *Giardia lamblia* or (for public water systems using surface water or GWUDISW as its source of water supply and serving at least 10,000 individuals) *Cryptosporidium*, or significant and relatively rapid shifts in site specific water characteristics such as turbidity, temperature, conductivity or pH which closely correlate to climatological or surface water conditions. The DHH determination of direct influence may be based on an evaluation of site specific measurements of water quality and/or well characteristics and geology with field evaluation.

Heterotrophic Plate Count (HPC) a laboratory analytical procedure for estimating the number of live heterotrophic bacteria in water using instrumentation and methods as described in *Standard Methods for the Examination of Water and Wastewater*, 19th Edition. Results of such analysis is reported as ?colony-forming units per milliliter? (cfu/ml).

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

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

Nephelometric Turbidity Unit (NTU) a measurement of the turbidity of water as determined by the comparison of the intensity of light scattered by the sample to the intensity of incident light, using instrumentation and methods described in ?105.B of this Chapter.

Peak Hourly Flow the maximum flow through a particular disinfection segment over a 1 hour period during 24 hourly periods in a calendar day.

Pressure Filter a pressurized vessel containing properly sized and graded granular media.

Primary Standard (Turbidity) "C" turbidity primary standard".

Qualified Engineer Any engineer who has been registered under the provisions of R.S. 37:681, *et seq.*, and who holds a current certificate issued by the Louisiana Professional Engineering and Land Surveying Board, and who has knowledge and experience in water treatment plant design, construction, operation, and watershed evaluations.

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

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

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

Supplier "C" for the purpose of this Chapter, means the owner or operator of a public water system.

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

Turbidity "C" a measure of the decline of the clarity of water caused by suspended and colloidal matter, such as clay, silt, finely divided organic and inorganic matter, plankton, and other microscopic organisms. It is formally expressed as the optical property that causes light to be scattered and absorbed, rather than transmitted with no change in direction through the sample.

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

Turbidity Primary Standard "C" a suspension used to calibrate a turbidimeter, such as user-prepared formazin, commercial stock formazin suspensions, or commercial styrene-divinylbenzene suspensions. Such suspensions shall be prepared and used in conformity with the laboratory methods described in §105.B of this Chapter.

Validation "C" to determine the degree of deviation of a measuring instrument (such as a bench top or continuous monitoring turbidimeter) from a primary standard by employing less sophisticated or involved means typically employed during a calibration, such as use of a state-approved secondary standard.

Virus "C" any of a large group of submicroscopic agents (that consist of a RNA or DNA core of genetic material surrounded by a protein coat but no semipermeable membrane) that are capable of growth and multiplication only in living cells and that are infectious to humans by waterborne transmission and that cause various important diseases in humans, including, but not limited to, poliomyelitis, aseptic meningitis, infectious hepatitis, gastroenteritis, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8), R.S. 40:5 (2)(3)(5)(6)(17)(20), and R.S. 40:1148.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1336 (June 2002), amended LR 28:

§105. Analytical Requirements

A. Analysis for total coliform, fecal coliform, or HPC which may be required (or, in the case of HPC, optionally allowed in lieu of a disinfectant residual) under this Chapter shall be conducted by a laboratory certified by DHH to do such analysis. Until laboratory certification criteria are developed, laboratories certified for total coliform analysis by DHH are deemed certified for fecal coliform and HPC analysis.

B. Public water systems shall conduct analysis for turbidity in accordance with:

1. SM 2130 B [(Nephelometric Method), *Standard Methods for the Examination of Water and Wastewater*, 19th edition, American Public Health Association (APHA), 800 I Street N.W., Washington, D.C. 20001-3710. Telephone (202)777-2742. Also available from the American Water Works Association (AWWA) and the Water Environment Federation (WEF)];

2. EPA Method 180.1 [(Nephelometric Method), "Methods for the Determination of Inorganic Substances in Environmental Samples", EPA-600-R-93-100, August 1993. Available from the National Technical Information Service, NTIS PB94-121811. Telephone (800) 553-6847]; or

3. GLI Method 2 [(Great Lakes Instrument Method 2), "Turbidity", November 2, 1982, GLI International, Inc., 9020 West Dean Road, Milwaukee, Wisconsin 53224. Telephone (414) 355-3601].

C. Public water systems shall conduct analysis for applicable residual disinfectant concentrations in accordance with one of the analytical methods in Table 1. The methods listed in the following table are contained in the *Standards Methods for the Examination of Water and Wastewater*, 19th Edition.

Table 1		
Residual	Methodology	Methods
Free Chlorine	Amperometric Titration	SM 4500-Cl D
	DPD Ferrous Titrimetric	SM 4500-Cl F
	DPD Colorimetric	SM 4500-Cl G
	Syringaldazine (FACTS)	SM 4500-Cl H
Total Chlorine	Amperometric Titration	SM 4500-Cl D
	Amperometric Titration (low level measurement)	SM 4500-Cl E
	DPD Ferrous Titrimetric	SM 4500-Cl F
	DPD Colorimetric	SM 4500-Cl G
	Iodometric Electrode	SM 4500-Cl I
Chlorine Dioxide	Amperometric Titration	SM 4500-ClO ₂ C
	DPD Method	SM 4500-ClO ₂ D
	Amperometric Titration	SM 4500-ClO ₂ E
Ozone	Indigo Method	SM 4500-O ₃ B

1. Particularly for distribution system monitoring, nothing herein shall be construed to prevent a public water system from determining the residual disinfectant concentrations for free chlorine or combined chlorine by use of DPD colorimetric test kits.

D. Public water systems shall conduct analysis for pH using one of the following electrometric methods:

1. SM 4500-H⁺ B (Standard Methods for the Examination of Water and Wastewater, 19th edition);

2. EPA Method 150.1 ("Methods for Chemical Analysis of Water and Wastes", EPA/600/4-79/020, March 1983. Available from the NTIS, PB84-128677);

3. EPA Method 150.2 ("Methods for Chemical Analysis of Water and Wastes", EPA/600/4-79/020, March 1983. Available from the NTIS, PB84-128677); or

4. ASTM Method D1293-95 [*Annual Book of ASTM Standards*, 1996, Vol. 11.01, American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959. Telephone (610) 832-9585. Note: Previous version (ASTM Method D1293-84) is also approved and is located in the *Annual Book of ASTM Standards*, 1994, Vols. 11.01].

E. Public water systems shall conduct analysis for temperature using the following thermometric method:

1. SM 2550 B (Standard Methods for the Examination of Water and Wastewater, 19th edition).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5 (5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1337 (June 2002), amended LR 28:

§1107. Calibration/Validation of Turbidimeters

A. General. Calibration_t using a turbidity primary standard shall be done in accord with approved methods listed in ¶105.B.

B. Calibration_t of Turbidimeters. Bench top and continuous monitoring turbidimeters shall be calibrated using a turbidity primary standard at a frequency of no less than once every 90 days. The instruments shall be calibrated in accord with the manufacturer's instructions.

C. Validation of Bench Top Turbidimeters. Calibration_t of the bench top turbidimeters shall be validated with state-approved secondary standards each time a sample or set of samples is tested. For turbidity measurements less than 0.2 NTU and the turbidimeter reading is 20 percent or more deviation of the state-approved secondary standard, the bench top turbidimeter shall be recalibrated with a turbidity primary standard. For turbidity measurements greater than or equal to 0.2 NTU and the turbidimeter reading is 10 percent or more deviation of the state-approved secondary standard, the bench top turbidimeter shall be recalibrated with a turbidity primary standard.

D. Validation of Continuous Monitoring Turbidimeters. Calibration_t of the continuous monitoring turbidimeters shall be validated at least once each week by either using a state-approved secondary standard or determining the turbidity of the water flowing out of the continuous monitoring turbidimeter using a bench top turbidimeter. Follow-up actions based upon the validation method selected are as follows.

1. Validation by Use of a State-Approved Secondary Standard

a. If the state-approved secondary standard is less than 0.2 NTU and the continuous monitoring turbidimeter reading is 20 percent or more deviation of the state-approved secondary standard, the continuous monitoring turbidimeter shall be recalibrated with a turbidity primary standard. If the state-approved secondary standard is greater than or equal to 0.2 NTU and the continuous monitoring turbidimeter reading is 10 percent or more deviation of the state-approved secondary standard, the continuous monitoring turbidimeter shall be recalibrated with a turbidity primary standard.

2. Validation by Determining the Turbidity of the Water Flowing out of the Continuous Monitoring Turbidimeter Using a Bench Top Turbidimeter

a. For turbidity measurements less than 0.2 NTU and the continuous monitoring turbidimeter reading is 20 percent or more deviation from the bench top turbidimeter reading, the continuous monitoring turbidimeter shall be recalibrated with a turbidity primary standard. For turbidity measurements greater than or equal to 0.2 NTU and the continuous monitoring turbidimeter reading is 10 percent or more deviation from the bench top turbidimeter reading, the continuous monitoring turbidimeter shall be recalibrated with a turbidity primary standard.

E. Re-Standardization of Secondary Standards. Each time a turbidimeter has been calibrated with a turbidity primary standard, the secondary standards shall be re-standardized. When a secondary standard has been assigned an expiration date by the manufacturer, nothing herein shall be construed as to allow the re-standardization of such secondary standard beyond the expiration date set by the manufacturer.

F. Records of Calibrations/Validations. Records of calibrations/validations on each bench top and continuous monitoring turbidimeter shall be maintained for at least 3 years, as follows.

1. Records of bench top turbidimeters shall include meter location, meter identification, dates of calibration_t, and the name of the person performing the calibration_t.

2. Records of continuous monitoring turbidimeters shall include meter location (e.g., filter number), unique meter identification (e.g., model and serial number), dates of calibration_t, dates of validation, and the name of the person performing the calibration_t.

G. Records of Re-Standardization of Secondary Standards. Records of any re-standardization of secondary standards shall be maintained for at least 3 years, as follows:

1. Records of re-standardizations done using bench top turbidimeters shall include the value assigned to the secondary standard, date of assignment, meter identification (e.g., model and serial number) which was used to assign the secondary standard its unique value for such meter, manufacturer's expiration date, and the name of the person performing the re-standardization.

2. Records of re-standardizations done using continuous monitoring turbidimeters shall include the value assigned to the secondary standard, date of assignment, meter location (e.g., filter number), meter identification (e.g., model and serial number) which was used to assign the secondary standard its unique value for such meter, manufacturer's expiration date, and the name of the person performing the re-standardization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5 (5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1337 (June 2002), amended LR 28:

§1109. Calibration_{dra}/Validation of Disinfectant Residual Analyzers

A. Validation of Bench Top Disinfectant Residual Spectrophotometers/Colorimeters. The accuracy of bench top spectrophotometers/colorimeters used for disinfectant residual monitoring, particularly for validation of continuous disinfectant residual monitors, shall be determined at a frequency of no less than once every 90 days by use of a NIST traceable standard solution which has been obtained from an approved source (e.g., Certificate of Analysis by

manufacturer). Deviations of 10 percent or more shall be cause for calibration_{dra} of the equipment. The instruments shall be calibrated in accord with the manufacturer's instructions. After calibration_{dra}, the instrument's accuracy shall be validated prior to return to service.

B. Validation/Standardization Using Other Methods. For approved methods for disinfectant residual analysis other than spectrophotometric/colorimetric methods, validation/standardization of disinfectant residual analyzers shall be performed in accord with procedures outlined in the particular method [see 1103.C].

C. Validation of Continuous Disinfectant Residual Monitors. The accuracy of residual disinfectant measurements from any continuous disinfectant residual monitor shall be validated weekly. Validation shall be performed by collecting a grab sample from the tubing supplying water to the monitor (e.g., via a tee connection which is normally capped or valved closed) at a location immediately upstream (less than 5 feet) of the continuous disinfectant residual monitor. Such grab sample shall be analyzed using a bench top spectrophotometer/colorimeter which has been calibrated according to §1109.A of this Chapter. If the spectrophotometer/colorimeter reading indicates 10 percent or more deviation as compared to the continuous disinfectant residual monitor reading, the cause of the disparity shall be investigated and resolved within five working days. In the meantime, grab samples shall be collected and analyzed every two hours as per Section 1125.B of this Chapter. The accuracy of residual disinfectant measurements from any replacement instrument shall be validated prior to service or return to service.

D. Records of Calibrations/Validations. Records of calibrations/validations on each bench top spectrophotometer/colorimeter used for disinfectant residual monitoring and on each continuous disinfectant residual monitor shall be maintained for at least three years, as follows.

1. Records of bench top spectrophotometers/colorimeters shall include meter location, meter identification, dates and results of NIST traceable standard solution, dates of calibration_{dra}/validation and the name of the person performing the calibration_{dra}/validation.

2. Records of continuous disinfectant residual monitors shall include meter location, unique meter identification (e.g., model and serial number), dates and results of calibration/validation, and the corrective actions taken when deviations of 10 percent or more occur.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5 (5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1338 (June 2002), amended LR 28:

§1111. Cleaning of Analytical Instrumentation

A. A thorough cleaning of analytical instrumentation, particularly continuous monitoring turbidimeters and continuous disinfectant residual monitors, shall be performed, as necessary, prior to performing any calibration/validation. On a weekly basis, continuous monitoring turbidimeters and continuous disinfectant residual monitors shall be inspected to determine if there is any material or sedimentation in the measuring chambers. Records of such inspection/cleaning shall be kept for at least

3 years and such records shall include meter location (e.g., filter number), unique meter identification (e.g., model and serial number), dates of cleaning, and the name of the person performing the cleaning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5 (5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1340 (June 2002), amended LR 28:

Subchapter B. Treatment Technique Requirements and Performance Standards

§1113. Treatment Technique Requirements

A. Each supplier using surface water or GWUDISW shall provide multibarrier treatment that meets the requirements of this Chapter and reliably ensures at least:

1. A total of 99.9 percent (3 Log) reduction of *Giardia* cysts through treatment processes including filtration and disinfection.

2. A total of 99.99 percent (4 Log) reduction of viruses through treatment processes including filtration and disinfection.

3. For suppliers serving at least 10,000 individuals, a total of 99 percent (2 Log) removal of *Cryptosporidium* oocysts through treatment processes including filtration.

4. The total reductions to be required by the DHH may be higher and are subject to the source water concentration of *Giardia lamblia*, viruses, and for suppliers serving at least 10,000 individuals, *Cryptosporidium*.

B. Suppliers meeting the requirements of 1115 and 1119 shall be deemed to be in compliance with the minimum reduction and removal requirements specified in 1113.A of this Chapter.

C. Section 1117 of this Chapter presents requirements for non-filtering systems. All suppliers which use surface water as a source shall provide filtration. On a case by case basis, systems using GWUDISW may not be required to filter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and R.S. 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1340 (June 2002), amended LR 28:

§1115. Filtration Performance Standards

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

1. Conventional Filtration Treatment
2. Direct Filtration Treatment
3. Slow Sand Filtration
4. Diatomaceous Earth Filtration

B. Conventional filtration treatment shall be deemed to be capable of achieving at least 99.7 percent (2.5 Log) removal of *Giardia* cysts, 99 percent (2 Log) removal of *Cryptosporidium* oocysts (for public water systems serving at least 10,000 individuals), and 99 percent (2 Log) removal of viruses when in compliance with operation criteria (Subchapter D of this Chapter) and performance standards (1115 and 1119 of this Subchapter). Direct filtration treatment and diatomaceous earth filtration shall be deemed to be capable of achieving at least 99 (2 Log) percent removal of *Giardia* cysts, 99 percent (2 Log) removal of *Cryptosporidium* oocysts (for public water systems serving

at least 10,000 individuals), and 90 (1 Log) percent removal of viruses when in compliance with operation criteria (Subchapter D of this Chapter) and performance standard 1115 and 1119 of this Subchapter). Slow sand filtration shall be deemed to be capable of achieving at least 99 (2 Log) percent removal of *Giardia* cysts, 99 percent (2 Log) removal of *Cryptosporidium* oocysts (for public water

systems serving at least 10,000 individuals), and 99 (2 Log) percent removal of viruses when in compliance with operation criteria and performance standards.

1. Expected minimum removal credits for public water systems serving at least 10,000 individuals are listed in Table 2 of this Chapter along with the corresponding remaining minimum disinfection log inactivation required.

Table 2 (applicable to systems serving at least 10,000 individuals)						
Treatment Methods						
Filtration Method	Expected Minimum Log Removals			Remaining Minimum Disinfection Log Inactivation Required		
	<i>Giardia</i>	<i>Crypto</i>	Virus	<i>Giardia</i>	<i>Crypto</i>	Virus
Conventional	2.5	2.0	2.0	0.5	-0-	2.0
Direct	2.0	2.0	1.0	1.0	-0-	3.0
Slow Sand	2.0	2.0	2.0	1.0	-0-	2.0
Diatomaceous Earth	2.0	2.0	1.0	1.0	-0-	3.0

2. Expected minimum removal credits for public water systems serving less than 10,000 individuals are listed

in Table 3 of this Appendix along with the corresponding remaining minimum disinfection log inactivation required.

Table 3 (applicable to systems serving less than 10,000 individuals)				
Treatment Methods				
Filtration Method	Expected Minimum Log Removals		Remaining Minimum Disinfection Log Inactivation Required	
	<i>Giardia</i>	Virus	<i>Giardia</i>	Virus
Conventional	2.5	2.0	0.5	2.0
Direct	2.0	1.0	1.0	3.0
Slow Sand	2.0	2.0	1.0	2.0
Diatomaceous Earth	2.0	1.0	1.0	3.0

3. The remaining minimum disinfection log inactivation shall not be less than what is required pursuant to Table 2 or 3, as applicable.

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

1. The turbidity level of the filtered water shall be equal to or less than 0.3 NTU in at least 95 percent of the measurements taken each month.

EXCEPTION: In the case of public water systems using surface water or GWUDISW as its source of water supply and serving less than 10,000 individuals, the turbidity level of the filtered water shall be equal to or less than 0.5 NTU in at least 95 percent of the measurements taken each month.

2. Filtered water turbidity shall not exceed 1 NTU at any time.

EXCEPTION: In the case of public water systems using surface water or GWUDISW as its source of water supply and serving less than 10,000 individuals, filtered water turbidity shall not exceed 5 NTU at any time.

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

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

2. The turbidity level of the filtered water shall at no time exceed 5 NTU.

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

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

2. The turbidity level of representative samples of filtered water shall at no time exceed 5 NTU.

F. An alternative to the filtration technologies specified in 1115.A of this Chapter may be used provided the supplier demonstrates to the DHH that the alternative technology, 1) provides a minimum of 99 percent *Giardia* cyst removal and 99 percent virus removal and 2) for public water systems using surface water or GWUDISW as its source of water supply and serving at least 10,000 individuals, 99 percent (2 Log) *Cryptosporidium* oocyst removal, and 3) meets the turbidity performance standards established in 1115.C of this Chapter. Such alternative filtration technology, in combination with disinfection treatment, shall be shown to consistently achieve a total of no less than 99.9 (3 Log) percent removal and/or inactivation of *Giardia lamblia* cysts and 99.99 (4 Log) percent removal and/or inactivation of viruses. The demonstration shall be based on the results from a prior equivalency demonstration or a testing of a full scale installation that is treating a water with similar characteristics and is exposed to similar hazards as the water proposed for treatment. A pilot plant test of the water to be treated may also be used for this demonstration if conducted with the approval of the DHH. The demonstration shall be presented in an engineering report prepared by a qualified engineer. Additional reporting for the first full year of operation of a new alternative filtration treatment process

approved by the DHH, may be required at DHH discretion. The report would include results of all water quality tests performed and would evaluate compliance with established performance standards under actual operating conditions. It would also include an assessment of problems experienced, corrective actions needed, and a schedule for providing needed improvements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1340 (June 2002), amended LR 28:

§1117. Non-Filtering Systems

A. General. On a case-by-case basis, DHH may waive filtration requirements for suppliers using GWUDISW. To be considered, non-filtering systems shall conform to the criteria of this Section. All suppliers using surface water shall employ filtration.

B. Source Water Quality to Avoid Filtration

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

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

b. Sample analyses methods may be the multiple-tube fermentation technique or the membrane filter technique as described in the *Standard Methods for the Examination of Water and Wastewater*, 19th Edition.

c. Minimum sampling frequencies:

Population	Samples/Week
≤500	1
501-3300	2
3301-10,000	3
10,001-25,000	4
> 25,000	5

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

2. To avoid filtration, the turbidity of the water prior to disinfection cannot exceed 5 NTU based on grab samples collected every 4 hours (or more frequently) that the system is in operation. Continuous turbidity measurement is allowed provided the accuracy of the turbidity measurements are validated at least weekly in accord with §107.D of this Chapter. If there is a failure in the continuous turbidity monitoring equipment, the system shall collect and analyze a grab sample every 4 hours in lieu of continuous monitoring. Systems shall maintain the results of these turbidity measurements for at least 3 years.

C. Disinfection Criteria to Avoid Filtration

1. To avoid filtration, a system shall demonstrate that it maintains disinfection conditions which inactivate 99.9 percent (3 Log) of *Giardia* cysts and 99.99 percent (4 Log) of viruses everyday of operation except any one day each

month. To demonstrate adequate inactivations, the system shall monitor and record the disinfectant used, disinfectant residual at peak hourly flow, disinfectant contact time at peak hourly flow, pH, and water temperature, and use these data to determine if it is meeting the minimum total inactivation requirements of this rule.

a. A system shall demonstrate compliance with the inactivation requirements based on conditions occurring during peak hourly flow. Residual disinfectant measurements shall be taken hourly. Continuous disinfectant residual monitors are acceptable in place of hourly samples provided the accuracy of the disinfectant measurements are validated at least weekly in accord with §1109.B or C, as applicable, of this Chapter. If there is a failure in the continuous disinfectant residual monitoring equipment, the system shall collect and analyze a grab sample every hour in lieu of continuous monitoring. Systems shall maintain the results of disinfectant residual monitoring for at least 3 years.

b. pH and temperature shall be determined daily for each disinfection sequence prior to or at the first customer.

2. To avoid filtration, the system shall maintain a minimum residual of 0.2 mg/L free chlorine or 0.4 mg/L total chlorine entering the distribution system and maintain a detectable residual throughout the distribution system. Performance standards shall be as presented in §1119.B and C of this Chapter.

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

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

b. An automatic shut off of delivery of water to the distribution system when the disinfectant residual level drops below 0.2 mg/l free chlorine residual or 0.4 mg/L total chlorine residual.

D. Site Specific Conditions to Avoid Filtration. In addition to the requirement for source water quality and disinfection, systems shall meet the following criteria to avoid filtration maintain a watershed control program, conduct a yearly on-site inspection, determine that no waterborne disease outbreaks have occurred, comply with the total coliform MCL at least 11 months of the 12 previous months that the system served water to the public and comply on an ongoing basis, comply with Disinfection By-Product(DBP)regulations for total trihalomethanes (TTHM), haloacetic acids (five) [HAA5], bromate, and chlorite, and comply with Maximum Residual Disinfection Level (MRDL)regulations for chlorine, chloramines, and chlorine dioxide.

1. Watershed Control Program. A watershed control program for systems using GWUDISW shall include as a minimum the requirements of the Wellhead Protection Program (WHPP), delineated as follows:

a. specify the duties of state agencies, local governmental entities and public water supply systems with respect to the development and implementation of the WHPP;

b. determine the wellhead protection area (WHPA) for each wellhead as defined in 42 U.S.C.A. 300h-7(e) based on all reasonably available hydrogeologic information,

groundwater flow, recharge and discharge and other information the State deems necessary to adequately determine the WHPA;

c. identify within each WHPA all potential anthropogenic sources of contaminants which may have any adverse effect on the health of persons, specifically with the goal of minimizing the potential for contamination of the source water by *Giardia lamblia* cysts, viruses, and, for systems serving at least 10,000 individuals, *Cryptosporidium* oocysts;

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

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

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

g. provide for public participation.

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

a. review the effectiveness of the watershed control program;

b. review the physical condition and protection of the source intake;

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

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

e. review the condition of disinfection equipment;

f. review operating procedures;

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

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

3. Sanitary Survey. In addition to the above requirements, a sanitary survey shall be performed every 3 years for community water systems and every 5 years for non-community water systems which use GWUDISW without filtration. The sanitary survey shall include:

a. review the condition of finished water storage facilities;

b. determine that the distribution system has sufficient pressure throughout the year;

c. verify that distribution system equipment has received regular maintenance;

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

e. review routine flushing program for effectiveness;

f. evaluate the corrosion control program and its impact on distribution water quality;

g. review the adequacy of the program for periodic storage reservoir flushing;

h. review practices in repairing water main breaks to assure they include disinfection;

i. review additions, improvements incorporated during the year to correct deficiencies detected in the initial inspection;

j. review the operations to assure that any difficulties experienced during the year have been adequately addressed;

k. review staffing to assure adequate numbers of certified operators are available in accord with LAC 48:V.Chapter 73;

l. verify that a regular maintenance schedule is followed;

m. audit systems records to verify that they are adequately maintained; and

n. review bacteriological data from the distribution system for coliform occurrence, repeat samples and action response.

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

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

6. DBP Regulations. For a system using GWUDISW to continue using disinfection as the only treatment, the system shall comply with the DBP regulations, including TTHM, HAA5, bromate, and chlorite, as applicable.

7. MRDL Regulations. For a GWUDISW system to continue using disinfection as the only treatment, the system shall comply with the MRDLs for chlorine, chloramines, and chlorine dioxide, as applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8) and 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1341 (June 2002), amended LR 28:

§1119. Disinfection Performance Standards

A. All surface water or GWUDISW utilized by a supplier shall be provided with continuous disinfection treatment sufficient to ensure that the total treatment process provides inactivation of *Giardia* cysts and viruses, in conjunction with the removals obtained through filtration, to meet the reduction requirements specified in §1113 of this Chapter.

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

1. Water delivered to the distribution system shall contain a disinfectant residual of not less than 0.2 mg/l free

chlorine or 0.4 mg/l total chlorine for more than 4 hours in any 24 hour period.

2. The residual disinfectant concentrations of samples collected from the distribution system shall be detectable in at least 95 percent of the samples each month, taken during any two consecutive months. At any sample point in the distribution system, the presence of heterotrophic plate count (HPC) bacteria at concentrations less than 500 colony-forming units per milliliter (cfu/ml) shall be considered equivalent to a detectable disinfectant residual.

C. Determination of Inactivation by Disinfection. Minimum disinfection requirements shall be determined by DHH on a case-by-case basis but shall not be less than those required in Table 2 of §1115.B.1 or Table 3 of §1115.B.2, as applicable, of this Chapter. The desired level of inactivation shall be determined by the calculation of CT values; residual disinfectant concentration ("C") times the contact times ("T") when the pipe or vessel is in operation. Disinfectant contact time shall be determined by tracer studies.

1. The T_{10} value will be used as the detention time for calculating CTs. T_{10} is the detention time at which 90 percent of the flow passing through a vessel is retained within the vessel. Systems conducting tracer studies shall submit a plan to DHH for review and approval prior to the study being conducted. The plan shall identify how the study will be conducted, the tracer to be used, flow rates, etc. The plan shall also identify who will actually conduct the study. Tracer studies are to be conducted according to protocol found in standard engineering texts (such as *Levenspiel*), or the methodology in EPA's *Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems using Surface Water Sources*, March 1991 Edition (SWTR Guidance Manual).

2. On a case-by-case basis, alternate empirical methods of calculating T_{10} as outlined in the SWTR Guidance Manual may be accepted for vessels with geometry and baffling conditions analogous to basins on which tracer studies have been conducted and results have been published in the SWTR Guidance Manual or the literature.

3. Additional tracer studies shall be conducted by the supplier whenever modifications are made which may impact flow distribution, contact time, or disinfectant distribution.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8) and 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1341 (June 2002), amended LR 28:

§1121. Design Standards

A. All new treatment and disinfection facilities (and any existing treatment and disinfection facilities which undergo substantial renovation) shall be designed and constructed to meet the existing State Sanitary Code as modified by the requirements contained herein.

B. All new filtration facilities for surface water or GWUDISW plants (and any likewise existing filtration facilities which undergo substantial renovation) shall be designed such that each individual filter is constructed with filter-to-waste capability.

C. All new filtration and/or clearwell facilities for surface water or GWUDISW plants (and any likewise existing filtration and/or clearwell facilities which undergo substantial renovation) shall be designed to have one combined filter effluent point prior to clearwell storage. If this is not feasible for existing plants, such as when multiple clearwells already exist, each plant going to its own clearwell shall be designed to have a combined filter effluent point prior to that particular plant's clearwell.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and 40: 5 ((2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1341 (June 2002), amended LR 28:

Subchapter C. Monitoring Requirements

§1123. Filtration Monitoring

A. Source Water Turbidity Monitoring. Each supplier using surface water or GWUDISW as a source of water supply shall monitor the turbidity level of the raw water source by taking and analyzing no less than one grab sample per day. Continuous turbidity monitoring may be substituted provided the accuracy of the measurements are validated weekly in accord with §1107.D of this Chapter. If there is a failure in the continuous turbidity monitoring equipment, the system shall collect and analyze no less than one grab sample per day. Systems shall maintain the results of raw water turbidity monitoring for at least 3 years.

B. Settled Water Turbidity Monitoring

1. Each supplier using surface water as its source of water supply should monitor and record settled water turbidity prior to filtration in each individual treatment train at least once every 4 hours.

2. Each supplier using GWUDISW as its source of water supply should, if filtration is required or otherwise performed, monitor and record settled water turbidity prior to filtration in each individual treatment train at least once every 4 hours.

C. Combined Filter Effluent Turbidity Monitoring. To determine compliance with the performance standards specified in §1115 of this Chapter, each supplier using surface water or GWUDISW shall conduct continuous turbidity monitoring of representative samples of the combined filter effluent prior to clearwell storage during all times that the system is in operation. Combined filter effluent turbidity measurements shall be recorded every 15 minutes. The accuracy of the turbidity measurements from the continuous turbidity monitor shall be validated weekly in accord with §1107.D of this Chapter. If there is a failure in the continuous turbidity monitoring equipment, the system shall collect and analyze a grab sample every 2 hours in lieu of continuous monitoring, but for no more than five working days following the failure of the equipment. Failure to have the continuous monitoring equipment replaced or repaired and put back into continuous service following the five working days allowed herein shall be deemed to constitute a violation of this Chapter. Systems shall maintain the results of combined filter effluent turbidity monitoring for at least 3 years.

EXCEPTION: In the case of public water systems using surface water or GWUDISW and serving less than 10,000 individuals, each supplier shall conduct turbidity monitoring of representative samples of the combined filter effluent, prior to clearwell storage, at least once every 4 hours that the system is in operation. The purpose of such monitoring is to

determine compliance with the performance standards specified in ¶115 of this Chapter which is applicable to such systems. Continuous turbidity monitoring may be substituted provided the accuracy of the measurements are validated weekly in accord with ¶107.D of this Chapter. If there is a failure in the continuous turbidity monitoring equipment, the system shall collect and analyze a grab sample every 4 hours in lieu of continuous monitoring, but for no more than five working days following the failure of equipment. Systems shall maintain the results of combined filter effluent turbidity monitoring for at least 3 years.

1. In existing treatment plants which may not have a combined filter effluent point prior to clearwell storage or other design limitations, DHH may, on a case-by-case basis, allow turbidity compliance monitoring to be performed at an alternate sampling point which is determined to be representative of the system's filtered water (in accordance with Section 5.2.1 of the SWTR Guidance Manual). Requests to utilize an alternate turbidity monitoring sampling point for compliance monitoring shall be submitted in writing to DHH for review and approval.

D. Slow Sand or Small System Turbidity Monitoring. Suppliers using surface water or GWUDISW and utilizing slow sand filtration or serving fewer than 500 people may reduce turbidity monitoring to one raw water and one combined filter effluent grab sample per day if DHH determines that less frequent monitoring is sufficient to indicate effective filtration performance.

E. Individual Filter Turbidity Monitoring/Additional Actions

1. Monitoring Individual Filters for Turbidity. Public water systems using surface water or GWUDISW as its source of water supply, serves at least 10,000 individuals, and utilizes conventional filtration treatment or direct filtration shall conduct continuous turbidity monitoring for each individual filter. Such systems shall record the results of individual filter monitoring every 15 minutes while the filter is in service. The accuracy of the turbidity measurements from the continuous turbidity monitor shall be validated weekly in accord with §1107.D of this Chapter. If there is a failure in the continuous turbidity monitoring equipment, the system shall conduct grab sampling every 4 hours in lieu of continuous monitoring, but for no more than five working days following the failure of equipment. Failure to have the continuous monitoring equipment replaced or repaired and put back into continuous service following the five working days allowed herein shall be deemed to constitute a violation of this Chapter. Systems shall maintain the results of individual filter monitoring for at least 3 years.

a. When a particular water treatment plant is not configured to allow individual filter turbidity monitoring (e.g., Greenleaf Filter Plants) as required under Paragraph 1 of this Subsection, the system shall consult with DHH on a case-by-case basis to obtain approval of a plant specific alternative monitoring plan which is deemed to comply with the intent of individual filter turbidity monitoring, as far as is possible.

2. Triggered Actions Based on Individual Filter Results

Refer to ¶135.E.1 of this Chapter for additional actions which may be triggered dependent upon the results of individual filter turbidity monitoring. Compliance deadlines for performing such additional actions are also contained in §1135.E.1 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8) and 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1342 (June 2002), amended LR 28:

§1125. Disinfection Monitoring

A. CT Parameters Monitoring. To determine compliance with disinfection inactivation requirements specified in Table 2 of §1115.B.1 or Table 3 of §1115.B.2, as applicable, of this Chapter, each supplier shall develop and conduct a monitoring program to measure those parameters that affect the performance of the disinfection process. This shall include but not be limited to:

1. temperature of the disinfected water at each residual disinfectant concentration sampling point;
2. pH(s) of the disinfected water (if free chlorine is used as a disinfectant) at each free chlorine residual disinfectant concentration sampling point;
3. the disinfectant contact time(s) at peak hourly flow at each residual disinfectant concentration sampling point;
4. the residual disinfectant concentrations before or at the first customer during peak hourly flow; and
5. if the system uses more than one point of disinfectant application before the first customer, the system must determine the parameters identified in Paragraphs 1-4 of this Subsection for each individual disinfection segment immediately prior to the next point of disinfectant application during peak hourly flow so that a cumulative CT value can be determined before the treated water reaches the first customer. (Note: If the treatment plant uses its own finished water for potable purposes, the first customer may be the treatment plant itself.)

B. Disinfectant Residual Monitoring at Plant. To determine compliance with the performance standards specified in §§1115 or 1119 of this Chapter, the disinfectant residual concentrations of the water being delivered to the distribution system shall be measured and recorded continuously. The accuracy of disinfectant measurements obtained from continuous disinfectant monitors shall be validated at least weekly in accord with §1109.B or C, as applicable, of this Chapter. If there is a failure of continuous disinfectant residual monitoring equipment, grab sampling every 2 hours shall be conducted in lieu of continuous monitoring, but for no more than five working days following the failure of the equipment. Failure to have the continuous monitoring equipment replaced or repaired and put back into continuous service following the five working days allowed herein shall be deemed to constitute a violation of this Chapter. Systems shall maintain the results of disinfectant residual monitoring for at least 3 years.

C. Small System Disinfectant Residual Monitoring at Plant. Suppliers serving fewer than 3300 people may collect and analyze grab samples of the water being delivered to the distribution system for disinfectant residual determination each day in lieu of the continuous monitoring, in accordance with Table 5 of this Chapter, provided that any time the residual disinfectant falls below 0.2 mg/l free chlorine or 0.4 mg/l total chlorine, the supplier shall take a grab sample every 2 hours until the residual concentrations is equal to or greater than 0.2 mg/l free chlorine or 0.4 mg/l total chlorine.

Table 5 (applicable to systems serving less than 3,300 individuals)	
Disinfectant Residual Sampling	
System Population	Samples/Day
500	1
501-1,000	2
1,001-2,500	3
2,501-3,300	4

D. Disinfectant Residual Monitoring in Distribution System. The residual disinfectant concentrations shall be measured at least at the same points in the distribution system and at the same time that samples for total coliforms are collected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8) and R.S. 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1342 (June 2002), amended LR 28:

§1127. Disinfection Profiling

A. All public water systems using surface water or GWUDISW as its source of water supply and serving at least 10,000 individuals shall perform a disinfection profile of its disinfection practice on a continuous basis.

1. Any system that meets the criteria of Subsection A of this Section shall perform monitoring on each day of operation to determine the total logs of inactivation of *Giardia lamblia* cysts, based upon the CT_{99,9} (3-Log) values in Appendix E of the SWTR Guidance Manual, as appropriate, through the entire treatment plant. Any system that uses either chloramines or ozone for primary disinfection shall additionally calculate the total logs of inactivation of viruses for each day of operation, based upon the CT_{99,99} (4-Log) values in Appendix E of the SWTR Guidance Manual. Systems with more than one point of disinfectant application shall conduct monitoring for each disinfection segment. The following parameters shall be monitored:

a. the temperature of the disinfected water at each disinfectant residual concentration sampling point during peak hourly flow;

b. if the system uses free chlorine, the pH of the disinfected water at each free chlorine residual disinfectant concentration sampling point during peak hourly flow;

c. the disinfectant contact time(s) ("T") at peak hourly flow at each residual disinfectant concentration sampling point;

i. contact time(s) determined through actual tracer studies shall be used [not theoretical contact time(s) using baffling factors];

d. the residual disinfectant concentration(s) ("C") of the water before or at the first customer during peak hourly flow (Note: If the treatment plant uses its own finished water for potable purposes, the first customer may be the treatment plant itself.); and

e. if the system uses more than one point of disinfectant application before the first customer, the system must determine the parameters identified in Subparagraphs a-d of this Paragraph for each individual disinfection segment immediately prior to the next point of disinfectant application during peak hourly flow so that a cumulative CT value can be determined before the treated water reaches the first customer. (Note: If the treatment plant uses its own

finished water for potable purposes, the first customer may be the treatment plant itself.)

B. In addition, systems subject to the requirements of Subsection A of this Section shall compute their daily total logs of inactivation utilizing a computer spread sheet format/formulas approved by DHH. The system shall retain printed disinfection profile data as daily individual spreadsheets (containing the monitoring data, CT computation, and total log inactivation data) and in monthly/yearly graphical profile form for review as part of sanitary surveys conducted by DHH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8) and R.S. 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1129. Disinfection Practice Changes

A. Suppliers using surface water or GWUDISW as the source of water supply which decide to make a significant change to its disinfection practice shall submit plans and specifications to DHH for review and approval (in accord with the requirements of ¶05 of this Part) prior to making such change. Significant changes to disinfection practice are:

1. any changes to the point of disinfection;
2. any changes to the disinfectant(s) used in the treatment plant;
3. any changes to the disinfection process; or,
4. any disinfection practice modification which may lower the system's ability to comply with the required minimum log inactivation attributable to disinfection as listed in Table 2 of §1115.B.1 or Table 3 of §1115.B.2, as applicable, of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8) and R.S. 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Subchapter D. Operation

§1131. Operating Criteria

A. All treatment plants utilizing surface water or GWUDISW shall be operated by certified operators in accord with LAC 48:V.Chapter 73.

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

1. Conventional and direct filtration treatment plants shall be operated at flow rates not to exceed 3 gallons per minute per square foot (gpm/sq ft) for gravity filters. In any instance when pressure filters have been approved by DHH as the primary turbidity removal mechanism (see §23 of this Part), filtration rates shall not exceed 2 gpm/sq ft.

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

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

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

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

6. In any instance when pressure filters have been approved by DHH as the primary turbidity removal mechanism (see §23 of this Part), such filters shall be physically inspected and evaluated annually (not sooner than 120 calendar days from any previous inspection/evaluation) for such factors as media condition, mudball formation, and short circuiting. A written record of the inspection shall be maintained at the treatment plant.

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

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

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8), R.S. 40: 5 (2)(3)(5)(6)(17)(20) and R.S. 40: 1148.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Subchapter E. Reporting

§1133. DHH Notification

A. The supplier shall notify DHH by telephone or other equally rapid means as soon as possible but no later than 24 hours whenever:

1. the turbidity of the combined filter effluent as monitored exceeds 1.0 NTU at any time for conventional filtration treatment or direct filtration treatment;

EXCEPTION: In the case of public water systems using surface water and serving less than 10,000 individuals, whenever the turbidity of the combined filter effluent as monitored exceeds 5.0 NTU at any time for conventional filtration treatment or direct filtration treatment.

2. more than two consecutive 4 hour monitoring periods of the combined filter effluent show an exceedance of 0.5 NTU for conventional filtration treatment or direct filtration treatment;

EXCEPTION: In the case of public water systems using surface water and serving less than 10,000 individuals, more than two consecutive 4 hour monitoring periods of the combined filter effluent show an exceedance of 1.0 NTU for conventional filtration treatment or direct filtration treatment.

3. the turbidity of the combined filter effluent as monitored exceeds 1.0 NTU for slow sand filtration or diatomaceous earth filtration;

4. the turbidity of the combined filter effluent as monitored exceeds the maximum level set by DHH for the particular alternative filtration technology approved by DHH pursuant to §1115.F of this Chapter;

5. there is a failure to maintain a minimum disinfectant residual of 0.2 mg/l free chlorine or 0.4 mg/l total chlorine in the water being delivered to the distribution system and whether or not the disinfectant residual was restored to at least 0.2 mg/l free chlorine or 0.4 mg/l total chlorine within 4 hours;

6. an event occurs which may affect the ability of the treatment plant to produce a safe, potable water including,

but not limited to, spills of hazardous materials in the watershed and unit treatment process failures;

7. a waterborne disease outbreak potentially attributable to the water system has occurred and is discovered by the supplier.

B. In accord with the requirement of §321 of this Part, the supplier shall notify DHH by telephone or other equally rapid means as soon as possible but no later than 48 hours whenever:

1. non-compliance with a combined filter effluent turbidity standard occurs during any one particular month, e.g., anytime a minimum number of individual turbidity measurements above the turbidity standard will cause the system to exceed its 5 percent monthly allowance. [For example, in a 30 calendar day month and a plant operating 24 hours per day a total of 180 combined filter effluent turbidity compliance measurements are to be taken per month. Whenever 10 compliance measurements exceed the turbidity standard applicable to such system, the system is in violation of its treatment technique requirement (10 / 180 x 100 = 5.5 percent) and must notify DHH as soon as possible but not later than 48 hours of the violation.]

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8) and 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1135. Monthly Report

A. General. Each supplier with a surface water or GWUDISW treatment facility shall submit a monthly written report on the operation of each facility to the DHH by the tenth day of the following month. Such report shall be signed by a certified operator of the public water system.

B. Combined Filter Effluent Turbidity Results. The monthly report shall include the following results of samples collected from the combined filter effluent (or from an alternate compliance sampling point as approved by DHH on a case-by-case basis).

1. The highest individual turbidity measurement determined within each 4 hour monitoring period for each day that the system is in operation. Suppliers operating treatment facilities continuously shall report the highest individual turbidity measurement for each of the following 4 hour monitoring periods:

- a. 12:01 am - 4:00 am;
- b. 4:01 am - 8:00 am;
- c. 8:01 am - 12:00 pm (noon);
- d. 12:01 pm - 4:00 pm;
- e. 4:01 pm - 8:00 pm;
- f. 8:01 pm - 12:00 am (midnight).

NOTE: Suppliers which do not operate their treatment facilities continuously shall utilize these same time periods, as applicable, for reporting purposes. Times when there is no combined filter effluent available for monitoring, such as when the plant is not in operation, shall also be recorded by the supplier and such events shall be clearly identified and reported on the monthly report.

2. The number and percent of turbidity measurements reported under Paragraph 1 of this Subsection which are less than or equal to the performance standard specified for each filtration technology in §1115 of this Chapter, or as required for an alternative filtration technology.

3. The maximum daily raw water turbidity.

4. For public water systems using surface water or GWUDISW which serve at least 10,000 individuals and

utilize conventional or direct filtration treatment, the monthly report shall advise whether or not combined filter effluent turbidity monitoring has been conducted continuously and whether or not the measurements were recorded every 15 minutes. The monthly report shall also indicate the date and time when there is a failure in the continuous turbidity monitoring equipment or plant out of service as well as the date and time that such equipment/plant was placed back into service.

5. At the special request of the state health officer on a case-by-case basis, the supplier shall also provide an additional report listing the date and value of any other combined filter effluent turbidity measurement recorded by the supplier which exceeded the performance levels specified in §1115 of this Chapter and any corresponding raw water turbidity levels.

C. Disinfection Monitoring Results. The monthly report shall include the following disinfection monitoring results.

1. The date and duration of each instance when the disinfectant residual in water supplied to the distribution system is less than 0.2 mg/l free chlorine or 0.4 mg/l total chlorine and when the DHH was notified of the occurrence.

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

- a. the number of samples where the disinfectant residual is measured;
- b. the number of samples where only the heterotrophic plate count (HPC) is measured;
- c. the number of measurements with no detectable disinfectant residual and no HPC is measured;
- d. the number of measurements with no detectable disinfectant residual and HPC is greater than 500 colony forming units per milliliter;
- e. the number of measurements where only HPC is measured and is greater than 500 colony forming units per milliliter.

D. Explanation of Cause of Violation. The monthly report shall include a written explanation of the cause of any violation of performance standards specified in §§1115, 1117, or 1119 and operating criteria specified in §1131 of this Chapter.

E. Individual Filter Turbidity Results/Additional Actions

1. For public water systems using surface water or GWUDISW which serve at least 10,000 individuals and utilizes conventional or direct filtration treatment, the monthly report shall advise whether or not individual filter turbidity monitoring has been conducted continuously and whether or not the measurements were recorded every 15 minutes. Such systems shall additionally report individual filter turbidity measurement results taken only if measurements demonstrate one or more of the following four exceedance conditions.

a. For any individual filter that has a measured turbidity level of greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart, the system shall report the filter number, the turbidity measurement, and the date(s) on which the exceedance occurred. In addition, the system shall either produce a filter profile for the filter within 7 days of the exceedance (if the system is not able to identify an obvious reason for the abnormal filter performance) and report that the profile has been produced or report the obvious reason for the exceedance.

b. For any individual filter that has a measured turbidity level of greater than 0.5 NTU in two consecutive measurements taken 15 minutes apart at the end of the first 4 hours of continuous filter operation after the filter has been backwashed or otherwise taken off-line, the system shall report the filter number, the turbidity, and the date(s) on which the exceedance occurred. In addition, the system shall either produce a filter profile for the filter within seven days of the exceedance (if the system is not able to identify an obvious reason for the abnormal filter performance) and report that the profile has been produced or report the obvious reason for the exceedance.

c. For any individual filter that has a measured turbidity level of greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart at any time in each of three consecutive months, the system shall report the filter number, the turbidity measurement, and the date(s) on which the exceedance occurred. In addition, the system shall conduct a self-assessment of the filter within 14 days of the exceedance and report that the self-assessment was conducted. The self-assessment shall consist of at least the following components: an in-depth evaluation of filter performance, including analysis of historical filtered water turbidity from the filter; development of a filter profile; identification and prioritization of factors limiting filter performance; evaluation of the applicability of corrections; and, preparation of a filter self-assessment report.

d. For any individual filter that has a measured turbidity level of greater than 2.0 NTU in two consecutive measurements taken 15 minutes apart at any time in each of two consecutive months, the system shall report the filter number, the turbidity measurement, and the date(s) on which the exceedance occurred. In addition, the system shall arrange for the conduct of a comprehensive performance evaluation (CPE) by DHH or a third party approved by DHH no later than 30 days following the exceedance and have the evaluation completed and submitted to DHH no later than 90 days following the exceedance. For systems experiencing multiple exceedances, only one CPE is adequate until that CPE has been completed and the appropriate corrective actions taken.

i. This CPE shall be considered a compliance CPE; thus, either or both of the following shall be considered a violation(s) of this Chapter:

(a). failure to respond in writing to performance-limiting factors identified in the CPE within 45 days after receipt of the report, indicating how and on what schedule the system will address performance-limiting factors noted in the report; or

(b). failure to correct the performance-limiting factors identified in the CPE within a time schedule acceptable to DHH.

2. When a filter profile/obvious reason, self-assessment, or CPE has been triggered by the turbidity results of an individual filter, the following additional information for such filter shall be reported in the monthly report.

a. Data recorded relative to the occurrence of a failure in the continuous turbidity monitoring equipment for the affected individual filter or filter out of service conditions, the identity of the individual filter, the date and time of such equipment failure or out of service conditions

as well as the date and time that the equipment and/or filter was placed back into service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8) and R.S. 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1137. Disinfection Profiling Report

A. Public water systems subject to the requirements of §1127.A of this Chapter shall submit to DHH a printed report on the initial 12 consecutive months of disinfection profiling data (including daily individual spreadsheets containing the monitoring data, CT computation, and total log inactivation data) and in monthly/yearly graphical profile form as required under §1127 of this Chapter. This disinfection profiling report is due on no later than *[45 calendar days after this rule has been in effect for 12 full months]*.

B. On a case-by-case basis, DHH may accept existing operational data in lieu of the requirements of Subsection A of this Section if DHH determines that such data is substantially equivalent to data required to be collected under §1127 of this Chapter. Such data shall be representative of inactivation through the entire treatment plant and not just of certain treatment segments.

C. Following the submittal of the initial 12 consecutive month period report required under Subsection A of this Section, nothing herein shall be construed to prohibit DHH from requiring the public water system to submit a more current disinfection profiling data set on a case-by-case basis (e.g., when a significant change to the disinfection practice is proposed, etc.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4 (A)(8) and R.S. 40: 5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Subchapter F. Public Notification

§1139. Consumer Notification

A. Treatment Technique/Performance Standard Violations. The supplier shall notify persons served by the system whenever there is a failure to comply with the treatment technique requirements specified in §1113 or performance standards specified in §§1115, 1117, or 1119 of this Chapter. The notification shall be given in a manner approved by the DHH, and shall include the following mandatory language:

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

2. When there is a failure to comply with a treatment technique requirement or performance standard as required in Subsection A of this Section, the supplier shall provide public notification in a daily or weekly newspaper serving the area as soon as possible but no later than 14 days after the violation or failure. Where newspaper notice is not feasible for a non-community water system, continuous posting may be substituted; however, such notice shall remain posted for a minimum of at least 7 days. In addition to newspaper notice, a notice shall also be provided to the consumers by direct mail or hand delivery within 45 days after the violation or failure.

B. Monitoring Violations. The supplier shall notify persons served by the system in the manner approved by DHH whenever there is a failure to comply with the monitoring requirements specified in §§1123 or 1125 of this Chapter. When there is a failure to comply with the monitoring requirements specified in §§1123 or 1125 of this Chapter, the supplier shall provide public notification in a daily or weekly newspaper serving the area within 3 months of the violation or failure. Where newspaper notice is not feasible for a non-community water system, continuous posting in conspicuous places within the area served by the system may be substituted; however, such notice shall remain posted for a minimum of at least 7 days. In addition to newspaper notice, a notice shall also be provided to the consumers by direct mail or hand delivery within 3 months after the violation or failure.

C. Acute Violations. When:

1. an event occurs which may affect the ability of the treatment plant to produce safe, potable water as specified under §1133.A.6 of this Chapter;

2. a waterborne disease outbreak occurs as specified under §1133.A.7 of this Chapter;

3. the combined filter effluent turbidity level exceeds 5.0 NTU; or,

4. other conditions/violations which are deemed by the state health officer, acting personally, as posing an acute risk to human health exist or occur;

5. the supplier shall furnish a notice to radio and television stations serving the area as soon as possible but not later than 24 hours after awareness of the incident by the supplier. The supplier shall also provide public notification in a daily or weekly newspaper serving the area as soon as possible but no later than 14 days after the violation or failure. In addition to newspaper notice, a notice shall also be provided to the consumers by direct mail or hand delivery within 45 days after the violation or failure.

EXCEPTION: Where furnishing a notice to radio and television stations, newspaper notice, or mailing is deemed not feasible for a non-community water system, continuous posting may be substituted; however, such notice shall remain posted for a minimum of at least 7 days.

D. Public Notice Verification. Systems required to provide public notification shall otherwise be required to comply with the requirements of 313 of this Part, including, but not limited to, submission of public notice verification to the State Health Officer within 10 days subsequent to the completion of public notification.

AUTHORITY NOTE: Promulgated in accordance with RS. 40:4 (A)(8) and 40:5 (2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Family Impact Statement

1. The Effect on the Stability of the Family. We do not anticipate any effect on the stability of the family as a result of this proposed rule.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. We do not anticipate any effect on the authority and rights of parents regarding the education and supervision of their children as a result of this proposed rule.

3. The Effect on the Functioning of the Family. We do not anticipate any effect on the functioning of the family as a result of this proposed rule.

4. The Effect on Family Earnings and Family Budget. No significant impact on family earnings is predicted as a result of this rule. Assuming that a public water system using surface water or ground water under the direct influence of surface water as its source of water supply (and serves at least 10,000 people), decides to increase rates for all of its customers served by the system in order to reimburse itself for any additional expenses incurred by the proposed rule, any increase in the individual homeowner's water bill is expected to be of an insignificant amount. It is estimated that 92 percent of households will incur less than a cost of \$1 per month, and 7 percent of households will face a cost increase between \$1 and \$5 per month according to the EPA (Federal Register, Vol. 63, No. 241, Wed., Dec. 16, 1998). Economic benefits of the proposed rule derive from the increased level of protection to public health. The primary goal of this rule is to improve public health by increasing the level of protection from exposure to *Cryptosporidium* and other pathogens found in surface water sources. Prevention of cases of cryptosporidiosis and other intestinal diseases will cause the family to save money on medical care, medicines, etc.

5. The Effect on the Behavior and Personal Responsibility of Children. We do not anticipate any direct effect on the behavior and personal responsibility of children as a result of this proposed rule.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. We do not anticipate any effect on the ability of the family functioning as a result of this proposed rule. Local governmental units which own, manage, and/or operate a PWS using surface water or ground water under the direct influence of surface water (GWUDISW) as its source of water supply and serves at least 10,000 people may determine a need to increase their revenue collections (*i.e.*, increase water bills) to cover the cost of complying with the proposed rule.

DHH-OPH will conduct a public hearing at 10 a.m. on Tuesday, August 27, 2002, in Room 118 of the Blanche Appleby Computer Complex Building (on the Jimmy Swaggart Ministries Campus), 6867 Bluebonnet Blvd., Baton Rouge, LA. All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

In addition, all interested persons are invited to submit written comments on the proposed rule. Such comments

must be received no later than Friday, August 30, 2002 at COB, 4:30p.m., and should be addressed to R. Douglas Vincent, Chief, Engineering Services Section, Center for Environmental Health, Office of Public Health, 6867 Bluebonnet Blvd., Box 3, Baton Rouge, LA 70810, or faxed to (225) 765-5040.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Interim Safe Drinking Water Program Enhanced Surface Water Treatment

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

The Department of Health and Hospitals, Office of Public Health (DHH-OPH) has determined that 27 public water systems (PWSs) within Louisiana will be affected by the major provisions of the federally mandated rule. Twenty-six of these systems are owned by local governmental units. The one remaining system is run under a franchise agreement, with the franchiser being a local governmental unit. The estimated annualized cost to all of the 27 affected Louisiana utilities is \$4.074 million which includes treatment, start-up and on-going implementation, monitoring, operation and maintenance, and capital costs.

The estimated annualized cost to DHH-OPH is \$224,000 which includes start-up and monitoring costs, such as travel, supplies, communication, and postage, as well as additional review time required by staff to monitor the public water systems compliance with the federally mandated rule. In addition, DHH-OPH will have to pay a total of approximately \$5,400 in FY2002-03 funds to the Office of the State Register to have the Notice of Intent and the final rule published in the *Louisiana Register*.

No staffing costs to DHH-OPH are anticipated since existing staffing is currently sufficient to implement the rule as proposed (currently will affect 27 of the approximately 70 surface water systems in the state). However, within the next 18-42 months, an additional federal mandate will require the OPH to adopt a similar rule applicable to approximately an additional 43 smaller surface water systems. Additional staff may be required at that time to adequately implement the rule.

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

State or local governmental units which own, manage, and/or operate a PWS using surface water or ground water under the direct influence of surface water (GWUDISW) as its source of water supply and serves at least 10,000 people may determine a need to increase their revenue collections (*i.e.*, increase water bills) to cover the cost of complying with this federally mandated rule; however, if such increases are warranted, they will be warranted regardless whether or not this equivalent state rule is adopted since such systems are already required (and will continue to be required) to comply under the existing federal IESWTR.

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

EPA has estimated that 92 percent of the households will incur less than a cost of \$1.00 per month and seven percent will face an increase in cost between \$1.00 to \$5.00 per month. The actual effect on revenue collections is hard to predict due to variables in the applicable requirements based upon various sized system.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

The proposed rule will likely cause an increase in competition to hire and retain qualified and certified water plant operators. The rule will require water plant operators to become more knowledgeable of plant processes and controls. The more competent and qualified an operator is, the higher will be the competition to hire and retain him/her.

In addition, the proposed rule mandates more automation within the treatment plant. This will cause an increase in employment to install and maintain such automated systems.

Madeline McAndrew
Assistant Secretary
0207#044

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Labor
Office of Workforce Development**

**Customized Training Fund
(LAC 40:XVI.105)**

Notice is hereby given, in accordance with R.S. 49:905 et seq. that the Louisiana Department of Labor, pursuant to authority vested in the Department by R.S. 23:1514 and in accordance with applicable provisions of the Administrative Procedure Act, proposes to amend rules governing the workforce development training account, LAC 40:XVI.105, to provide for the requirements for approval of applications requesting funds in excess of 5 percent of the available funds during a fiscal year.

**Title 40
LABOR AND EMPLOYMENT
Part XVI. Customized Training**

§105. Criteria

A. - B. ...

C.1. No single employer or consortium shall receive training funds more than once in a 24-month time period. No single employer or consortium shall receive more than 5 percent of the total funds available to the program during a fiscal year. An employer with multiple operation sites and a single unemployment insurance tax identification number shall be limited to a single application which may encompass training at the various sites, as long as the amount awarded under the application does not exceed the maximum award amount. When an employer has more than one site and each site maintains a different unemployment insurance tax identification number, the employer may apply for a separate training award under each tax identification number.

2. An employer or consortium can request a grant award in excess of 5 percent of the total funds available to the program in a fiscal year. Such grant award may be approved at the discretion of the Secretary of Labor when the employer or consortium submits satisfactory documentation which allows for a determination that the training provided to employees of the employer or consortium will result in a substantial economic impact in

the state. In addition, the employer or consortium's application must meet the following conditions.

a. The wages of individuals to be trained with the funds will be increased at the completion of the training.

b. The additional funds will be used to allow for a significant increase in the number of individuals to be trained.

c. The employer or consortium will provide a dollar-for-dollar match of the funds provided in the grant award to assist with the total cost of the training, any activities related to the grant award or any economic development activities that can be verified by statistical data from a recognized state or federal source.

D. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1514.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workforce Development, LR 25:1143 (June 1999), amended by the Department of Labor, Office of Workforce Development, LR 26:1630 (August 2000), amended by the Department of Labor, Office of Workforce Development, LR 28:

Family Impact Statement

1. The Effect on the Stability of the Family. The proposed amendments to the Rules on the Workforce Development Training Fund/Customized Training Fund will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. The proposed amendments to the Rules on the Workforce Development Training Fund/Customized training Fund will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. The proposed amendments to the Rules on the Workforce Development Training Fund/Customized Training Fund will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The proposed amendments to the Rules on the Workforce Development Training Fund/Customized Training Fund may affect family earnings and the family budget of those individuals that participate in and are trained under the Incumbent Worker Training Program. These individuals should receive a skill upgrade and should receive an increase in position and/or pay after the completion of the customized training.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed amendments to the Rules on the Workforce Development Training Fund/Customized Training Fund will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. The proposed amendments to the Rules on the Workforce Development Training Fund/Customized Training Fund will have no effect on the ability of the family or a local government to perform any functions.

Dawn Romero Watson
Secretary of Labor

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

RULE TITLE: Customized Training Fund

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

Act 1053 of the 1997 Regular Legislative Session established the Workforce Development Training Account. During the 1999 Regular Legislative Session, the legislature increased the appropriation into this account to be used for customized training from \$6,000,000 to \$50,000,000. Although these Rules are not responsible for the additional expenditures, the proposed change should facilitate the operation of the program in an effective and efficient manner. In part, this Rule has been proposed to clarify when applications that seek approval of grant awards in excess of 5 percent of the total funds available to the program in a fiscal year will be approved by the Secretary of Labor. The Department of Labor estimates that there will be no additional administrative costs associated with the implementation of the proposed Rule amendment.

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

There will be no direct effect on revenue collections of state or local governmental units. There could be an indirect positive impact if the program is successful.

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

It is anticipated that the full \$50,000,000, less administrative costs, will be distributed among eligible applicants which will include public and/or private training providers along with interested employers or consortiums of employers who have operated in the state for at least three years. The direct economic benefit will be those savings provided to the applicant through the state funded training program. Thus, an eligible applicant will be subsidized for a portion of the funding necessary to train its employees.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Workforce Development Training Account should not significantly affect competition among those awarded grants for customized training, but will provide some incremental cost advantage to successful applicants compared to entities which do not receive the funding. Employees of organizations benefiting from the fund will receive industry standard training thereby allowing them to be more productive and efficient. Also, as incumbent workers are trained and promoted, employment opportunities for existing employees and potential employees will increase.

Dawn Romero Watson
Secretary
0207#066

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

**Definition of Tangible Personal Property
(LAC 61:I.4301)**

Under the authority of R.S. 47:301 and R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4301 relative to the definition of *tangible personal property* for sales tax purposes.

These proposed amendments provide guidance regarding the definition of *tangible personal property* in R.S. 47:301(16) and describe items included in and excluded from that definition.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 43. Sales and Use Tax

§4301. Definitions

A. - C. ...

Tangible Personal Property

a. R.S. 47:301(16)(a) defines *tangible personal property* as personal property that can be seen, weighed, measured, felt, touched, or is perceptible to the senses. The Louisiana Supreme Court has ruled that *tangible personal property* is equivalent to corporeal movable property as defined in Article 471 of the Louisiana Civil Code. The Louisiana Civil Code describes corporeal movable property as things that physically exist and normally move or can be moved from one place to another. Examples of *tangible personal property* include but are not limited to:

- i. durable goods such as appliances, vehicles, and furniture;
- ii. consumable goods such as food, cleaning supplies, and medicines;
- iii. utilities such as electricity, water, and natural gas; and
- iv. digital or electronic products such as "canned" computer software, electronic files, and "on demand" audio and video downloads.

b. Prepaid telephone cards and authorization numbers (for state sales and use tax purposes) and work products consisting of the creation, modification, updating, or licensing of canned computer software are specifically defined as *tangible personal property* by law.

c. Repairs of machinery, appliances, and equipment that have been declared immovable under Article 467 of the Louisiana Civil Code and things that have been separated from land, buildings, or other constructions permanently attached to the ground or their component parts as defined by Article 466 of the Louisiana Civil Code are treated as taxable repairs of *tangible personal property* under R.S. 47:301(14)(g).

i. Things are considered separated from an immovable when they are detached and repaired at a location off the customer's immediate property where the immovable is located or at the repair vendor's facility, even if that facility is on property owned, leased, or occupied by the customer. If the thing is detached from the immovable and repaired on the customer's immediate property, it is not considered separated from the immovable and the repair would not be subject to tax.

ii. The customer's immediate property is the tract of land that is owned, leased, or occupied by the customer where the immovable is located.

iii. Tracts of land owned, leased, or occupied by the customer that are separated only by a public road or right-of-way from the land where the immovable is located are also considered the customer's immediate property.

d. Tangible personal property does not include:

i. incorporeal property such as patents, copyrights, rights of inheritance, servitudes, and other legal rights or obligations;

ii. work products presented in a tangible form that have worth because of the technical or professional skills of the seller. Work products are considered non-taxable technical or professional services if the tangible personal property delivered to the client is insignificant in comparison to the services performed and there is a distinction between the value of the intangible content of the service and the tangible medium on which it is transferred. These do not include items that have intrinsic value, like works of art, photographs, or videos. Also, documents that are prepared or reproduced without modification for sale to multiple users are considered sales of tangible personal property. Examples of sales of technical or professional services that are transmitted to the customer in the form of tangible personal property include but are not limited to:

- (a). audience, opinion, or marketing surveys;
- (b). research or study group reports;
- (c). business plans; and
- (d). investment analysis statements.

iii. immovable property defined by the Louisiana Civil Code, which includes:

- (a). tracts of land (La. Civil Code Article 462);
- (b). component parts of a tract of land when they belong to the owner of the land (La. Civil Code Article 463);
- (c). buildings and standing timber even when owned by someone other than the owner of the land (La. Civil Code Article 464);

(d). things, such as building materials, incorporated into a tract of land or incorporated into a building or other construction that belongs to the owner of the land and is an integral part of the immovable (La. Civil Code Article 465);

(e). things permanently affixed to a building or other construction so that they cannot be removed without substantially damaging them or the immovable to which they are attached (La. Civil Code Article 466); and,

(f). except when being repaired as defined by R.S. 47:301(14)(g), machinery, appliances, and, equipment that have been declared immovable by the owner in the parish conveyance records (La. Civil Code Article 467).

e. For sales tax purposes, buildings are structures that are permanently affixed to the ground, not necessarily intended for habitation, and include, but are not limited to, office buildings, homes, apartments, stores, and permanent offshore drilling platforms.

f. Constructions, other than buildings, permanently attached to the land are movables when they belong to someone other than the owner of the land. Examples of this include, but are not limited to, towers, signs, and fences. However, constructions other than buildings installed on land where the owner of the land provides a perpetual servitude (La. Civil Code Article 639) or right of way, such as transmission lines as defined by the Federal Energy Regulatory Commission or the Louisiana Public Service Commission (except for lines between a wellhead and a tank battery), are treated as immovable property for sales tax purposes.

g. Items specifically excluded from the definition of *tangible personal property* include:

i. stocks, bonds, notes, or other obligations or securities;

ii. gold, silver, or numismatic coins of any value;

iii. platinum, gold, or silver bullion having a total value of \$1,000 or more;

iv. proprietary geophysical survey information or geophysical data analysis furnished under a restrictive use agreement even if transferred in the form of tangible personal property;

v. parts and services used in the repairs of motor vehicles if all of the following conditions are met:

(a). the repair is performed by a dealer licensed by the Louisiana Motor Vehicle Commission or the Louisiana Used Motor Vehicle and Parts Commission;

(b). the repair is performed subsequent to the lapse of an original warranty that was included in the taxable price of the vehicle by the manufacturer or the seller;

(c). the repair is performed at no charge to the owner; and

(d). the repair charge is not paid by an extended warranty plan that was purchased separately.

vi. pharmaceuticals administered to livestock used for agricultural purposes as defined by the Louisiana Department of Agriculture and Forestry under LAC 7:XXIII.103; and

vii. work products of persons licensed under Title 37 of the Louisiana Revised Statutes such as legal documents prepared by an attorney, financial statements prepared by an accountant, and drawings and plans prepared by an architect or engineer for a specific customer. When these items are reproduced without modification for sale to multiple users, they are considered *tangible personal property* and subject to sales and use tax.

h. Manufactured or mobile homes purchased in or delivered from another state to Louisiana after June 30, 2001, are excluded from the definition of *tangible personal property* for state sales and use taxes. Manufactured or mobile homes purchased in or delivered from another state to Louisiana after December 31, 2002, are excluded from the definition of *tangible personal property* for local sales and use taxes when the buyer certifies the manufactured or mobile home will be used as a residence.

i. For state sales taxes, the entire price paid for used manufactured or mobile homes and 54 percent of the price paid for new manufactured or mobile homes are excluded from the definition of *tangible personal property* and not subject to tax.

ii. For local sales taxes when the buyer certifies the manufactured or mobile home will be used as a residence:

(a). after December 31, 2002, and before January 1, 2004C 25 percent of the price paid for used manufactured or mobile homes and 13 1/2 percent of the price paid for new manufactured or mobile homes are excluded from the definition of *tangible personal property* and not subject to tax;

(b). after December 31, 2003, and before January 1, 2005C 50 percent of the price paid for used manufactured or mobile homes and 27 percent of the price paid for new manufactured or mobile homes are excluded from the definition of *tangible personal property* and not subject to tax;

(c). after December 31, 2004, and before January 1, 2006C 75 percent of the price paid for used manufactured or mobile homes and 40 1/2 percent of the price paid for new manufactured or mobile homes are excluded from the definition of *tangible personal property* and not subject to tax; and

(d). after December 31, 2005C the entire price paid for used manufactured or mobile homes and 54 percent of the price paid for new manufactured or mobile homes are excluded from the definition of *tangible personal property* and not subject to tax.

iii. Manufactured or mobile homes are structures that are transportable in one or more sections, built on a permanent chassis, designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and include plumbing, heating, air-conditioning, and electrical systems. The units must be either 8 body feet or more in width or 40 body feet or more in length in the traveling mode, or at least 320 square feet when erected on site. These size requirements may be disregarded if the manufacturer voluntarily certifies to the distributor or dealer at the time of delivery that the structure conforms to all applicable federal construction and safety standards for manufactured homes.

iv. Manufactured or mobile homes do not include modular homes that are not built on a chassis, self-propelled recreational vehicles, or travel trailers.

i. The sale or purchase of custom computer software on or after July 1, 2002, and before July 1, 2005, is partially excluded, and on or after July 1, 2005, completely excluded, from the definition of *tangible personal property* under R.S. 47:301(16)(h). This exclusion applies to state sales tax, the sales tax of political subdivisions whose boundaries are coterminous with the state, and the sales tax of political subdivisions whose boundaries are not coterminous with the state that exempt custom computer software by ordinance as authorized by R.S. 47:305.52. Custom computer software is software that is specifically written for a particular customer or that adapts prewritten or "canned" software to the needs of a particular customer.

i. Before July 1, 2002C purchases of prewritten or canned software that are incorporated into and resold as a component of custom computer software before July 1, 2002, are considered purchases of *tangible personal property* for resale. Use tax is not due on these purchases and any sales tax paid is eligible for tax credit against the tax collected on the retail sale of the custom software.

ii. Phase-In Period—the sales tax exclusion for custom computer software will be phased in at the rate of 25 percent per year beginning on July 1, 2002. During the phase-in period, purchases of prewritten or canned software that are incorporated into and resold as a component of custom computer software will be considered a purchase for resale according to the applicable sales tax exclusion percentage in effect at the time of sale. The custom software vendor must pay sales tax on the purchase price of the canned software and may claim tax credit for the percentage that is resold as *tangible personal property*. If 75 percent of the sales price of the custom computer software is taxable, the vendor is allowed a tax credit for 75 percent of tax paid on the canned software purchase. Conversely, if sales tax was not paid by the custom software vendor on the purchase

of canned software that is incorporated into custom software, use tax will be due on the percentage that is not considered to be a purchase for resale. The sales tax exclusion percentage will increase each year during the phase-in period and guidelines on the phase in of this exclusion will be published in a Revenue Ruling.

iii. July 1, 2005C the purchase of prewritten or canned software that is incorporated into and resold as a component of custom computer software sold on or after July 1, 2005, will be considered the purchase of *tangible personal property* for the personal use of the custom software vendor and subject to sales and use tax.

* * *

AUTHORITY NOTE: Promulgated in Accordance with R.S. 47:301 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 21:957 (September 1995), LR 22:855 (September 1996), amended by the Department of Revenue, Policy Services Division, LR 27:1703 (October 2001), LR 28:348 (February 2002), LR 28:1488 (June 2002), LR 28:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The Effect on the Stability of the Family. Implementation of this proposed rule will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. Implementation of this proposed rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Implementation of this proposed rule will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Implementation of this proposed rule will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of this proposed rule will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. Implementation of this proposed rule will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Tuesday, August 27, 2002. A public hearing will be held on Thursday, August 29, 2002, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

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

RULE TITLE: Definition of Tangible Personal Property

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
Implementation of this proposed regulation, which clarifies the definition of tangible personal property for sales tax purposes, will have no impact on state or local agencies' costs.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There should be no effect on revenue collections of state or local governmental units as a result of this proposed regulation.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This proposed regulation would have no effect on the costs or economic benefits to vendors, manufacturers, or purchasers of tangible personal property in Louisiana.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This proposed regulation should have no effect on competition or employment.

Cynthia Bridges
Secretary
0207#043

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT
Department of Revenue
Policy Services Division

Sales Tax on Property Used in Interstate Commerce
(LAC 61:I.4420)

Under the authority of R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:I.4420 relative to the sales tax exemption set forth in R.S. 47:305.50 for vehicles used in interstate commerce.

This proposed Rule provides guidance on the length of time vehicles must be used in interstate commerce in order to qualify for the exemption. It also discusses the consequences if a taxpayer claims the exemption at the time of purchase and subsequently does not qualify for the exemption.

Title 61
REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 44. Sales and Use Tax Exemptions
§4420. Property Used in Interstate Commerce

A. R.S. 47:305.50(A) allows certain taxpayers to register trucks with a gross weight of 26,000 pounds or more, trailers to be used with such trucks, and contract carrier buses with the Office of Motor Vehicles of the Department of Public Safety and Corrections (OMV) without paying state or local sales or use tax. To qualify for the exemption, the taxpayer must be authorized by the United States Department of Transportation to engage in interstate for-hire transportation of freight, and the taxpayer must certify to the OMV that the property will be used at least 80 percent of its total mileage

in interstate commerce. The Department of Revenue and the OMV provide forms on which to make these certifications.

B. Any taxpayer who claims the exemption provided for in R.S. 47:305.50(A) must maintain records of the use of the property in order to document that the property is used for at least 80 percent of its total mileage in interstate commerce.

1. If the documentation indicates that the property was not used during the one-year period following the date of its purchase for the required 80 percent or more of its total mileage in interstate commerce, the taxpayer will not qualify for the exemption and state and local sales or use tax will be due on the amount paid for the property at the rate that was applicable on the date the property was purchased, plus interest from the date the property was purchased to the date of the tax payment. The state portion of the tax must be reported on a sales tax return provided by the Department of Revenue and paid to the Department of Revenue by the twentieth day of the month following the end of the one-year period in which the taxpayer fails to qualify for the exemption. The local portion of the tax must be reported and paid to the proper local taxing authority in accordance with their ordinances.

2. If, during any of the following one-year periods, the documentation indicates that the property was not used for the required 80 percent or more of its total mileage in interstate commerce, the taxpayer will no longer qualify for the exemption. If this occurs, state and local sales or use tax will be due on the lesser of the purchase price or fair market value of the property on the first day of the one-year period that it does not meet the 80 percent test. The tax will be calculated based on the rate in effect on the first day of the one-year period in which the taxpayer no longer qualifies for the exemption, plus interest from the date the tax is due to the date of tax payment. The state portion of the tax must be reported on a sales tax return provided by the Department of Revenue and paid to the Department of Revenue by the twentieth day of the month following the end of the one-year period in which the taxpayer no longer qualifies for the exemption. The local portion of the tax must be reported and paid to the proper local taxing authority in accordance with their ordinances.

C. If the taxpayer fails to provide proper documentation, it will be presumed that the taxpayer does not qualify for the exemption and state and local sales or use tax will be due in accordance with Subsection B above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.50 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 28:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The Effect on the Stability of the Family. Implementation of this proposed Rule will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. Implementation of this proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

Wrap-Around Child Care Program
(LAC 67:III.Chapter 52)

3. The Effect on the Functioning of the Family. Implementation of this proposed Rule will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Implementation of this proposed Rule will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of this proposed Rule will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. Implementation of this proposed Rule will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Monday, August 26, 2002. A public hearing will be held on Wednesday, August 28, 2002, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Sales Tax on Property Used in Interstate
Commerce**

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

Implementation of this proposed Rule will have no impact on state or local governmental units' cost. This proposal is being adopted to provide guidance on the sales tax exemption provided by R.S. 47:305.50 regarding vehicles used in interstate commerce.

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

There should be no effect on revenue collections of state or local governmental units as a result of this proposed regulation.

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

This proposed regulation would have no costs or economic benefits to businesses that acquire trucks of 26,000 pounds or more, trailers, and contract carrier buses when at least 80 percent of their usage occurs in interstate commerce.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation should have no effect on competition or employment.

Cynthia Bridges
Secretary
0207#041

H. Gordon Monk
Staff Director
Legislative Fiscal Office

The Department of Social Services, Office of Family Support, proposes to repeal Title 67, Part III, Chapter 52, the Wrap-Around Child Care Program.

The agency implemented this program effective June 1, 2000. Whereas, the program has had limited participation and has not served the public as originally intended, the agency does not anticipate extending or renewing contracts beyond the 01/02 State Fiscal Year. The proposed repeal will formally terminate the program effective at publication of the final Rule.

**Title 67
SOCIAL SERVICES**

**Subpart 12. Child Care Assistance
Chapter 52. Wrap-Around Child Care Program
§5201. Authority**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:429 (March 2001), repealed LR 28:

§5202. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:429 (March 2001), amended LR 27:1560 (September 2001), repealed LR 28:

§5203. Conditions of Eligibility

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:429 (March 2001), amended LR 27:1560 (September 2001), repealed LR 28:

§5205. Income Limits

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:430 (March 2001), amended LR 27:1560 (September 2001), repealed LR 28:

§5207. Rights and Responsibilities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:430 (March 2001), repealed LR 28:

§5209. Head Start Grantees

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:430 (March 2001), amended LR 27:1560 (September 2001), repealed LR 28:

§5211. Payments Effective May 1, 2001

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:431 (March 2001), amended LR 27:1561 (September 2001), repealed LR 28:

Family Impact Statement

The termination of the program will have no impact on the authority and rights of persons regarding the education and supervision of their children. (There were only about 100 children participating in the program statewide.)

Interested persons may submit written comments by August 28, 2002, to Ann S. Williamson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA 70804-9065. She is the responding authority to inquiries regarding this proposed Rule.

A public hearing on the proposed Rule will be held on August 28, 2002, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Gwendolyn P. Hamilton
Secretary

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

RULE TITLE: Wrap-Around Child Care Program

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

Based on FY 01/02 spending, the proposed rule which terminates the Wrap-Around Child Care Program will result in real savings of an estimated \$311,719 in TANF funds (the federal Temporary Assistance for Needy Families Block Grant to Louisiana). The agency, as well as two of the three participating (Head Start Program) contractors, determined that the program was not cost effective. The original budget projection provided as much as \$24 million for annual expenditures.

The only implementation cost for this Rule is an estimated \$160 for publishing the Notice of Intent and final Rule; this cost is routinely included in OFS' annual budget.

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

There is no impact on revenue collections of state or local governmental units. The TANF Block Grant is not affected; funds will be diverted to other programs.

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

Some children will no longer receive child care services from this program. As of May 31, 2002, only about 25 children were being served statewide. Depending on personal circumstances, some families could be faced with paying child care costs. Only three Head Start programs had been serving as contractors in FY 01/02, so that these three have lost

funding/income from the Wrap-Around Child Care Program estimated at \$311,719 (based on the 01/02 fiscal year).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is assumed that since only one contractor would have continued to participate beyond June 30 and that program served only six children, that no more than one child care employee may not have continued employment in that Head Start summer program.

Ann S. Williamson
Assistant Secretary
0207#063

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

2003 Wild Turkey Season
(LAC 76:XIX.113, 115, and 117)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend the turkey rules and regulations for the 2003 season.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Season

§113. Turkey Hunting Regulations

A. Daily limit is one gobbler, two gobblers per season. Still hunting only. Use of dogs, baiting, electronic calling devices and live decoys is illegal. Turkeys may be hunted with shotguns, including muzzleloading shotguns, using shot not larger than #2 lead or BB steel shot, and bow and arrow but by no other means. Shooting turkeys from a moving or stationary vehicle is prohibited. Shotguns capable of holding more than three shells prohibited.

B. No person shall hunt, trap or take turkeys by the aid of baiting or on or over any baited area. Baiting means placing, exposing, depositing or scattering of corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed so as to constitute a lure, attraction or enticement to, on or over any areas where hunters are attempting to take turkeys.

C. A baited area is any area where corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed capable of luring, attracting or enticing turkeys is directly or indirectly placed, exposed, deposited, distributed or scattered. Such areas remain baited areas for 15 days following complete removal of all such corn, wheat or other grain, salt, or other feed.

D. Wildlife agents are authorized to close such baited areas and to place signs in the immediate vicinity designating closed zones and dates of closure.

E. The Department of Wildlife and Fisheries strongly discourages feeding agricultural grains to wild turkeys as this practice increases the risk of birds contracting potentially lethal diseases. Repeatedly placing grain in the same area may expose otherwise healthy birds to disease contaminated soils, grain containing lethal toxins and other diseased turkeys using the same feeding site. Properly distributed food plots (clovers, wheat, millet and chufa) are

far more desirable for turkeys and have the added benefit of appealing to a wide variety of wildlife.

F. It is unlawful to take from the wild or possess in captivity any live wild turkeys or their eggs. No pen raised turkeys from within or without the state shall be liberated (released) within the state.

G. All licensed turkey hunters are required to have a Turkey Stamp in their possession while turkey hunting in addition to basic and big game hunting licenses. Additionally, a WMA Hunting Permit is required of any person (age 18-59) who hunts on land administered by the Department of Wildlife and Fisheries, including Wildlife Management Areas, Wildlife Refuges, and Habitat Conservation Areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:2263 (November 1999), amended LR 26:2634 (November 2000), LR 27:2270 (December 2001), LR 28:

§115. Statewide Turkey Hunting Areas-Resident Game Birds and Animals

A. Shooting hours: one-half hour before sunrise to one-half hour after sunset.

Species	Season Dates	Daily Bag Limit	Possession Limit
Turkey	See Schedule	1	2/season

B. 2003 Turkey Hunting Schedule

Area	Season Dates
A	March 22-April 20
B	March 22-April 13
C	March 22-March 30

C. 2003 Turkey Hunting SeasonCOpen Only in the Following Areas

1. Area A CMarch 22-April 20
 - a. All of the following parishes are open:
 - i. East Baton Rouge;
 - ii. East Feliciana;
 - iii. LaSalle;
 - iv. Livingston;
 - v. Natchitoches (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates);
 - vi. St. Helena;
 - vii. St. Tammany;
 - viii. Tangipahoa;
 - ix. Washington;
 - x. West Baton Rouge;
 - xi. West Feliciana (including Racourci Island).
 - b. Portions of the following parishes are also open:
 - i. Allen: North of LA 26 from DeRidder to the junction of LA 104 and north of LA 104;
 - ii. Avoyelles: That portion bounded on the east by the Atchafalaya River, on the north by Red River to the Brouillette Community, on the west by LA 452 from Brouillette to LA 1, on the south by LA 1, eastward to Hamburg, thence by the West Atchafalaya Basin Protection levee southward;
 - iii. Beauregard: North of LA 26 east of DeRidder, north and east of US 171-190 from the junction of LA 26 to

DeRidder, and north of US 190 from DeRidder to Texas state line;

iv. Caldwell: West of Ouachita River southward to Catahoula Parish line, east of LA 165 from LaSalle Parish line to the junction of LA 126, north of LA 126 westward to the Winn Parish line;

v. Catahoula: West of Ouachita River southward to LA 559 at Duty Ferry, north of LA 559 to LA 124, south and west of LA 124 from Duty Ferry to LA 8 at Harrisonburg and north of LA 8 to LA 126, north and east of LA 126. ALSO that portion lying east of LA 15;

vi. Concordia: That portion east of LA 15 and west of US 65 from its juncture with LA 15 at Clayton;

vii. Evangeline: North and west of LA 115, north of LA 106 from St. Landry to LA 13, west of LA 13 from Pine Prairie to Mamou and north of LA 104 west of Mamou;

viii. Franklin: That portion lying east of LA 17 and east of LA 15 from its juncture with LA 17 at Winnsboro;

ix. Grant: All of the parish except that portion of land that lies north of the Red River between US 71 and LA 8. Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates;

x. Iberville: West of LA 1. EXCEPTION: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries;

xi. Madison: That portion lying west of US 65 and south of US 80;

xii. Pointe Coupee: All of the parish except that portion bounded on the north by LA Hwy. 1, from Innis to the junction of LA Hwy 417, on the west by LA Hwy. 417 southward toward McCrea, on the south by LA Hwy. 417 from McCrea to its juncture with Delhi Lane, then by Delhi Lane to LA Hwy. 418, then LA Hwy. 418 northward to LA Hwy. 1 at Innis. EXCEPTION: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries.

xiii. Rapides: All of the parish except that portion of lands that lies north of the Red River and south of US 71 from its juncture with the Red River northward to the Grant Parish line. Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest season dates;

xiv. Richland: That portion south of US 80 and east of LA 17;

xv. Sabine: That portion north of LA 6 from Toledo Bend Lake to Many; east of US 171 from Many to the Vernon Parish line;

xvi. St. Landry: That portion bounded on the west by the West Atchafalaya Basin Protection Levee and on the east by the Atchafalaya River. EXCEPTION: the Indian Bayou Area, see Federal Lands Hunting Schedule for Indian Bayou Area dates;

xvii. Upper St. Martin: All within the Atchafalaya Basin. EXCEPTIONS: Sherburne WMA and Indian Bayou Area, see WMA Turkey Hunting Schedule for special season dates on all state, federal and private lands within Sherburne WMA boundaries and see Federal Lands Hunting Schedule for Indian Bayou dates;

xviii. Tensas: That portion west of US 65 from the Concordia Parish line to its juncture with LA 128, north of LA 128 to St. Joseph; west and north of LA 605, 604 and 3078 northward to Port Gibson Ferry. Also all lands east of the main channel of the Mississippi River;

xix. Vernon: That portion east of US 171 from the Sabine Parish line to the junction of LA 111, south of LA 111 westward to LA 392, and south of LA 392 westward to the Sabine Parish line. Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest season dates.

2. Area BCMarch 22-April 13

a. All of the following parishes are open:

- i. Bienville;
- ii. Bossier;
- iii. Claiborne;
- iv. DeSoto;
- v. Jackson;
- vi. Lincoln;
- vii. Red River;
- viii. Union;
- ix. Webster (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates);

x. Winn (Exception: See Federal Lands Hunting Schedule for Kisatchie National Forest dates).

b. Portions of the following parishes are open:

i. Allen:

South and west of LA 26 from DeRidder to US 190 east of Elton, north of US 190 from the junction of LA 26 to Kinder and west of US 165 south of Kinder;

ii. Beauregard: South of LA 26 east of DeRidder, east of US 171 from the junction of LA 26 and south of LA 12 west of Ragley;

iii. Calcasieu: South of LA 12 east of DeQuincy, east of LA 27 from DeQuincy to I-10 and North of I-10 east of Sulphur;

iv. East Carroll: East of US 65 from Arkansas state line to Madison Parish line;

v. Jefferson Davis: North of US 190 from junction with LA 26 to Kinder, west of US 165 and north of I-10 west from junction of US 165;

vi. Ouachita: East of LA 143 from Union Parish line to US 80 in West Monroe, north of US 80 to LA 139, west of LA 139 to the Morehouse Parish line;

vii. Madison: South of US 80 and east of US 65 to Tensas Parish line and all lands lying east of the main channel of the Mississippi River;

viii. Morehouse: West of US 165 from the Arkansas line to Bonita, north and west of LA 140 to junction of LA 830-4 (Cooper Lake Road), west of LA 830-4 to US 165, north of US 165 to LA 139, west of LA 139 to Ouachita Parish line.

3. Area CCMarch 22-March 30

a. All of the following parishes are open:

i. Caddo.

b. Portions of the following parishes are open:

i. Ascension: All east of the Mississippi River;

ii. Catahoula: That portion lying south of Deer Creek to Boeuf River, east of Boeuf and Ouachita Rivers to LA 8 at Harrisonburg, west of LA 8 to LA 913, west of LA 913 and LA 15 to Deer Creek;

iii. Concordia: North and east of Sugar Mill Chute (Concordia Parish) from the state line westward to Red River, east of Red River northward to Cocodrie Bayou, east of Cocodrie Bayou northward to US 84, south of US 84 eastward to LA 15 (Ferriday), east of LA 15 northward to

US 65 (Clayton), east of US 65 northward to Tensas Parish line;

iv. Franklin: That portion lying west of LA 17, from Richland Parish line to LA 577 at Crowville, north of LA 577 to LA 15 at Baskin, east of LA 15 to Big Creek, and south and east of Big Creek to Richland Parish line;

v. Iberville: All east of the Mississippi River;

vi. Richland: West of LA 17 from Franklin Parish line to Ringle Rd., south of Ringle Rd. to Ferguson Rd., south of Ferguson Rd. to Little Rd., south of Little Rd. to Big Creek, east of Big Creek to Franklin Parish line;

vii. Tensas: East and south of US 65 from Concordia Parish line to LA 128, south of LA 128 to St. Joseph, east and south of LA 605, 604 and 3078 northward to Port Gibson Ferry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:2264 (November 1999), amended LR 26:2634 (November 2000), LR 27:2270 (December 2001), LR 28:

**§117. 2003 Wildlife Management Area
TurkeyC Hunting Regulations**

A. General

1. The following rules and regulations concerning management, protection and harvest of wildlife have been officially approved and adopted by the Wildlife and Fisheries Commission in accordance with the authority provided in Louisiana Revised Statutes of 1950, Section 109 of Title 56. Failure to comply with these regulations will subject the individual to citation and/or expulsion from the management area.

2. Only those Wildlife Management Areas listed are open to turkey hunting.

3. ATVs, ATCs and motorcycles cannot be left overnight on WMAs except in designated camping areas. ATVs are prohibited from two hours after sunset to 3 a.m. All roads including trails and roads designated as ATV only trails shall be closed to ATVs from March 1 through August 31 unless otherwise specified. ATV off-road or off-trail travel is prohibited. Certain trails may be open during this time period to provide access for fishing or other purposes. These trails will be marked by signs at the entrance of the trail. Otherwise, only walk-in hunting is permitted (bicycles permitted).

4. Bag limits on WMAs are part of the season bag limit. Only one turkey is allowed to be taken during special lottery hunts.

B. Permits

1. Self-Clearing Permits. All turkey hunts, including lottery hunts, are self-clearing. Hunters must check in daily by obtaining a permit from a self-clearing station prior to hunting. The self-clearing permit must be in the hunters possession while hunting. Upon completion of each days hunt, the hunter must check out by completing and depositing the hunter report portion of the permit in the check-out box at a self-clearing station before exiting the WMA.

2. Lottery Hunts. Bayou Macon, Boise-Vernon, Loggy Bayou, Sabine, Sherburne, Sicily Island, Tunica Hills, Union and West Bay WMAs are restricted to those persons selected as a result of the pre-application lottery. Special youth only lottery hunts will be held on Big Lake, Bens Creek, Fort Polk, Jackson-Bienville, Loggy Bayou, Sherburne, and West

Bay WMAs. Deadline for receiving applications for all lottery hunts is February 14, 2003. An application fee of \$5 must be sent with each application. Applicants may submit only one application and will be selected for one WMA Turkey Lottery Hunt annually. Submitting more than one application will result in disqualification. Contact any district office for applications. Hunters must abide by self-clearing permit requirements. Youths chosen for special youth only hunts will be guided by members of the Louisiana Chapter of the National Wild Turkey Federation. One family member may accompany the youth and guide, but may not hunt.

C. Wildlife Management Area Turkey Hunting Schedule*

WMA	Season Dates	Permit Requirements	Lottery Dates**
Bayou Macon	April 5-6	Self-Clearing	April 5-6
Bens Creek ¹	March 22-April 13	Self-Clearing	None
Big Lake	March 22-30	Self-Clearing	None
Bodcau	March 22-April 6	Self-Clearing	None
Boeuf	March 22-30	Self-Clearing	None
Boise Vernon	March 22-23 March 29-April 13	Self-Clearing	March 22-23 March 29-30
Camp Beauregard	March 22-April 6	Self-Clearing	None
Fort Polk	March 22-April 20	Self-Clearing	None
Grassy Lake	March 22-April 6	Self-Clearing	None
Hutchinson Creek	March 22-April 20	Self-Clearing	None
Jackson-Bienville	March 22-April 6	Self-Clearing	None
Little River	March 22-April 6	Self-clearing	None
Loggy Bayou	April 12-13	Self-Clearing	April 12-13
Pearl River	March 22-April 13	Self-Clearing	None
Peason Ridge	March 22-April 20	Self-Clearing	None
Plum Creek (formerly Georgia Pacific)	March 22-30	Self-Clearing	None
Pomme de Terre	March 22-April 6	Self-Clearing	None
Red River	March 22-30	Self-Clearing	None
Sabine	March 22-23 March 29-30	Self-Clearing	March 22-23 March 29-30
Sandy Hollow ¹	March 22-April 13	Self-Clearing	None
Sherburne ²	March 22-30	Self-Clearing	March 22-23 March 24-26
Sicily Island	March 22-30	Self-Clearing	March 22-24 March 25-27 March 28-30
Three Rivers	March 22-30	Self-Clearing	None
Tunica Hills South Tract	March 22-23 March 29-30 April 12-13 April 19-20	Self-Clearing	March 22-23 March 29-30 April 12-13 April 19-20
Tunica Hills Angola Tract ³	March 22-23 March 29-30 April 12-13 April 19-20	Self-Clearing	March 22-23 March 29-30 April 12-13 April 19-20
Union	April 5-6	Self-Clearing	April 5-6
Walnut Hills	March 22-April 20	Self-Clearing	None
West Bay	March 22-23 March 29-30	Self-Clearing	March 22-23 March 29-30

*Only those Wildlife Management Areas listed have a turkey hunting season. All other areas are closed.

**The deadline for receiving applications for all turkey Lottery Hunts on WMAs is February 14, 2003.

¹No turkey hunting within 100 yards of food plots identified by two yellow paint rings around the nearest tree.

²All turkeys harvested on Sherburne WMA must be weighed and checked at WMA headquarters.

³Scouting access limited. Contact Region 7 office for details (225) 765-2360.

D. Wildlife Management Area Youth Hunts

WMA	Lottery Youth Hunt Date
Bens Creek	March 15
Big Lake	March 15
Fort Polk	March 15
Jackson-Bienville	March 15
Loggy Bayou	April 5
Sherburne	March 15
West Bay	March 15

E. Federal Lands Turkey Hunting Schedule

1. Kisatchie National Forest (KNF) Turkey Hunting Schedule: Caney Ranger District, March 22-April 6; all remaining KNF lands, March 22-April 13 (including Catahoula and Red Dirt National Wildlife Management Preserves).

2. Indian Bayou Area (U.S. Army Corps of Engineers), Turkey Hunting Schedule: March 15 handicap only hunt, March 22-30, lottery hunt only on March 22-23 and March 24-26. Contact USCOE at 337-585-0853 for further information.

3. National Wildlife Refuges: Bogue Chitto NWR, March 22BApril 20; Lake Ophelia NWR, March 22-24 (lottery only), March 29-31(lottery only), April 1-6; Tensas NWR, March 15-16 (youth lottery only), March 22BApril 6. Contact the U.S. Fish and Wildlife Service for information regarding NWR hunts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 25:2265 (November 1999), amended LR 26:2636 (November 2000), LR 27:2272 (December 2001), LR 28:

The Secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments relative to the proposed Rule to Mr. Tommy Prickett, Administrator, Wildlife Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, until Thursday, September 5, 2002.

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972.B.

Thomas M. Gattle, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: 2003 Wild Turkey Season**

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

Establishment of hunting regulations is an annual process. The cost of implementing the proposed Rules to the state, aside

from staff time, is the production of the turkey regulation pamphlets and the issuance of turkey stamps. Implementation cost is estimated at \$17,531. The state agency currently has sufficient funds to implement the proposed action. Local governmental units will incur no implementation costs or savings from the proposed Rule.

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

License revenue from the sale of the turkey stamps is estimated to be \$54,343. Failure to adopt this Rule would result in no turkey hunting season and loss of state revenues from the sale of turkey stamps. In addition, loss of tax revenues of an undeterminable amount may occur to both state and local governmental units from the sale of supplies and equipment used in the pursuit of turkeys.

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

Approximately 10,000 resident and non-resident sportsmen and an undeterminable amount of sporting good distributors, retail outlets and landowners are directly affected by this proposal. Turkey hunters in Louisiana generate income to retail outlets, landowners and commercial operations that cater to the hunting public through hunting leases and the sale of outdoor

related equipment and associated items (food, fuel, clothing, shotgun shells, etc.). These land and business owners will be negatively impacted if turkey hunting seasons, rules and regulations are not established and promulgated. The actual amount of this impact is not estimable at this time. Both resident and non-resident turkey hunters will incur an additional cost of \$5.50 and \$20.50, respectively from the required purchase of a Wild Turkey Stamp.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Hunting supports approximately 15,271 full and part-time jobs in Louisiana of which a proportion is directly related to turkey hunting. Failure to establish turkey hunting seasons may have a negative impact on some of these jobs. It is also anticipated that there will be little or no effect on competition in both the public and private sectors resulting from the proposed action.

James L. Patton
Undersecretary
0207#067

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office