Notices of Intent

NOTICE OF INTENT

Department of Economic Development
Office of the Secretary
Division of Business Retention and Assistance Services

Small and Emerging Business Development Program
(LAC 19:II.Chapters 1-13)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Louisiana Department of Economic Development, Office of the Secretary, Division of Business Retention and Assistance Services, hereby proposes to amend its existing Rules and Regulations relative to its Small and Emerging Business Development Program, and to adopt the following new Rules and Regulations relative to the Small and Emerging Business Development Program.

The basis and rationale for the proposed rule are to comply with the statutory law administered by the agency, as authorized by R.S. 51:941, et seq. The amendment to the existing Rules and Regulations are based upon experience with the program and will simplify the application and certification process, increase the number of firms and individuals served through the program, and improve the participant's chance of a successful outcome. Improved outcomes will contribute to an increase in the small business survival rate and create more jobs.

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

Family Impact Statement

These Rules will have no effect on family formation, stability, autonomy, family functioning, earnings and budget, or on the rights of parents, or on the behavior or responsibility of children.

All interested persons are invited to submit written comments and present their views on these proposed new rules and regulations. Such written comments should be submitted (mailed and received) no later than 5 p.m., on September 6, 2002 to Arthur R. Cooper, Director, Division of Business Retention and Assistance Services, Louisiana Department of Economic Development, P.O. Box 94185, Baton Rouge, Louisiana 70804-9185, or delivered to One Maritime Plaza, 101 France Street (Front Street Entrance), Baton Rouge, Louisiana. The name of the person within the agency who has the responsibility for responding to inquiries about the intended action is Arthur R. Cooper.

Don J. Hutchinson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Small and Emerging Business Development Program

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

There will be no additional cost to the state for this agency in the implementation of the proposed revision and re-adoption of the rules of the Small and Emerging Business Development Program. The purpose of the revision is to streamline procedures for service delivery and to encourage participation by motivated and committed applicants. The workload and administration of the program will be shared by the current professional staff which consists of the Executive Director and five small business advisors under his direction. The cost will be absorbed within the present budget allocation.

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

There will be no effect on revenue collections of state and local government units.

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

The Small and Emerging Businesses and Small and Emerging Business Persons will be the direct beneficiaries of the proposed revision and re-adoption of the rules of the SEBD Program. Applicant certification and service delivery time frames will be expedited thereby increasing the number of firms and individuals served through the program. Initial training of applicants will be upgraded and made mandatory, which will improve the participant's chance of a successful outcome.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Improved training plus more highly motivated program participants will improve the small business survival rate, and an increase in successful small and emerging businesses will create more jobs. The Small and Emerging Business Development Program is relatively new, and no data exists to estimate the exact impact or to make a reliable projection at this time.

Arthur R. Cooper	Robert E. Hosse
Director BRAS	General Government Section Director
0208#097	Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Alternative Schools (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). The proposed revision will provide a more efficient and timely approval process for establishing new public alternative schools/programs; the approval process will not significantly change for non-public entities.

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 in LR 27:694 (May 2001), LR 27:695 (May 2001), LR 27:815 (June 2001), LR 28:

System Policies and Standards
Operation and Administration
Philosophy and Need for Alternative Schools/Programs

1.150.00 If alternative school programs are to be developed and established, they shall respond to particular educational needs within the community.

1.150.01 The local educational governing authority shall pass a resolution establishing the need for the alternative school/program and setting forth its goals and objectives.

1.150.03 The educational school/program shall be designed to implement the stated goals and objectives which shall be directly related to the unique educational requirements of its student body.

Approval of Alternative Schools/Programs

1.151.00 Alternative schools/programs shall comply with prescribed policies and standards for regular schools except for those deviations granted by the State Board Elementary and Secondary Education.

1.151.01 Approval to operate an Alternative School/Program shall rest with the local education authority (LEA).

A school system choosing to implement an Alternative School/Program shall submit to the Division of Family, Career and Technical Education by September 1st of each school year a list of their approved Alternative Schools/Programs.

Refer to the Alternative Education Handbook.

The State Department of Education will provide the SBESE with a listing of approved alternative schools/programs in October of each year.

1.151.02 An approved alternative school/program shall be described in the LEA's Pupil Progression Plan.

1.151.03 An annual school report based upon the standards for approval of alternative schools shall be made to the State Department of Education (SDE) on or before the date prescribed by the Department.

School Policies and Standards
Philosophy and Need for Alternative Schools/Programs

2.150.02 Each alternative school/program shall develop and maintain a written statement of its philosophy and the major purposes to be served by the school/program.

The statement shall reflect the individual character of the school/program and the characteristics and needs of the students it serves.

2.150.03 The educational school/program shall be designed to implement the stated goals and objectives which shall be directly related to the unique educational requirements of its student body.

Approval of Alternative Schools/Programs

2.151.00 Alternative schools/programs shall comply with prescribed policies and standards for regular schools exc ept for those deviations granted by the State Board of Elementary and Secondary Education.

2.151.01 Approval to operate an Alternative School/Program shall rest with the local education authority (LEA).

A school system choosing to implement an Alternative School/Program shall submit to the Division of Family, Career and Technical Education by September 1st of each school year a list of their approved Alternative Schools/Programs.

Refer to the Alternative Education Handbook.

The State Department of Education will provide the SBESE with a listing of approved alternative schools/programs in October of each year.

2.151.03 An annual school report based upon the standards for approval of alternative schools shall be made to the State Department of Education (SDE) on or before the date prescribed by the Department.

Operation and Administration
Philosophy and Need for Alternative Schools/Programs

6.150.03 The educational school/program shall be designed to implement the stated goals and objectives which shall be directly related to the unique educational requirements of its student body.

6.151.01 Initial Approval to Operate. Initial approval to operate shall be obtained from the State Department of Education prior to the establishment of the alternative school/program.

A narrative proposal describing the alternative school/program shall be submitted and shall include the following information: 1. purpose; 2. needs assessment; 3. type (alternative within regular education or alternative to regular education placement); 4. list of the *Bulletin 741: Louisiana Handbook for School Administrators*, policy and standard deviations; 5. anticipated date of implementation; 6. student eligibility; 7. entrance and exit criteria; 8. total number of students; 9. individual class sizes; 10. detailed outline of curriculum; 11. methods of instruction to meet individual student needs; 12. type and number of staff including qualifications/certification;

13. plan for awarding Carnegie units, when applicable;
14. grading and reporting procedures;
15. plan for parental and community involvement;
16. Educational support services;
17. In-service (professional development for personnel);
18. Type and location of physical facility;
19. Procedure for program evaluation.

A school system choosing to implement an alternative school/program shall submit the above proposal to the Division of Family, Career and Technical Education by May 1st for fall semester implementation and November 1st for spring semester implementation.

Refer to the Alternative Education Handbook.

The State Department of Education will provide the SBESE with a listing of approved alternative schools/programs twice annually, in June and December of each year.

Final Approval to Operate

6.151.03 Prior to final approval, the school shall be visited by State Department of Education (SDE) representatives, who will determine the school's suitability for SDE approval.

An annual school report based upon the standards for approval of alternative schools shall be made to the State Department of Education (SDE) on or before the date prescribed by the Department. Final approval is contingent upon review and satisfactory compliance with the requirements of the annual school report.

* * *

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

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 741C Louisiana Handbook For School AdministratorsC Alternative Schools

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

The proposed revision will provide a more efficient and timely approval process for establishing new public alternative schools/programs. There will be no implementation costs (savings) to state or local governmental units.

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

There will be no effect on revenue collections by state/local governmental units.

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance

H. Gordon Monk
Staff Director
Legislative Fiscal Office

0208#096

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification of School PersonnelC Non-Masters/Certification-Only ProgramC Alternative Path to Certification
(LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This policy provides a new structure for the Non-Master's/Certification-Only Program for alternate certification. The initial structure for this new alternate certification route was found to be deficient by a team of outside evaluators, who recommended its restructuring.

Title 28
EDUCATION
Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations
§903. Teacher Certification Standards and Regulations

A. Bulletin 746

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 27:825 (June 2001), LR 27:827 (June 2001), LR 27:828 (June 2001), LR 28:

Non-Masters/Certification-Only Program
Alternative Path to Certification

This program is designed to serve those candidates who may not elect participation in or be eligible for certification under either the Practitioner Teacher Alternate Certification Program or the Master's Degree Alternate Certification Program. The program may also be accessible in some areas of the state in which the other alternate certification programs are not available. A college or university may offer this program only in those certification areas in which that institution has a State-approved teacher education program. Non-Master's/Certification-Only Programs may offer certification in PK-3, 1-6, 4-8, 7-12, or Mild-Moderate Special Education.

Admission to the Program

To be admitted, individuals should:

1. possess a baccalaureate degree from a regionally accredited university;
2. have a 2.2 GPA, or higher, on undergraduate coursework. (An overall 2.5 GPA is required for certification. Those candidates with a GPA lower than 2.5 may have to take additional courses in the program to achieve a 2.5 GPA.);
3. pass the PRAXIS Pre-Professional Skills Test (PPST); and
4. pass the PRAXIS content-specific subject area examination.

a. Candidates for PK-3 (regular and special education): pass the Elementary Education: Content Knowledge (#0014) specialty exam.

b. Candidates for Grades 1-6 (regular and special education): pass the Elementary Education: Content Knowledge (#0014) specialty exam.

c. Candidates for Grades 4-8 (regular and special education): pass the Middle School Education: Content Knowledge (#0146) specialty exam.

d. Candidates for Grades 7-12 (regular and special education): pass the content specialty examination(s) (e.g. English, Mathematics, etc.) on the PRAXIS in the content area(s) in which they intend to teach.

Program Requirements

This program will provide the same rigor as other certification routes provided by aligning with such empirically-based standards as National Council for the Accreditation of Teacher Education (NCATE), Interstate New Teacher Assessment and Support Consortium (INTASC), Louisiana Components of Effective Teaching (LCET), and the Louisiana Content Standards. This program will also emphasize collaboration between the university and the school districts in order to share and exchange strategies, techniques, and methodologies; and integrate field-based experiences into the curriculum.

Program Structure

1. Knowledge of Learner and the Learning Environment* 12 hours

Grades PK-3, 1-6, 4-8, and 7-12:

Child/adolescent development/psychology, the diverse learner, classroom management/organization/environment, assessment, instructional design, and reading/instructional strategies that are content- and level-appropriate.

Mild/Moderate Special Education 1-12:

Special needs of the mild/moderate exceptional child, classroom management, behavioral management, assessment and evaluation, methods and materials for mild/moderate exceptional children, vocational and transition services for students with disabilities

*All courses for regular and special education will integrate effective teaching components, content standards, technology, reading, and portfolio development. Field-based experiences will be embedded in each course.

2. Methodology and Teaching 6 hours

Methods courses to include case studies and field experiences

3. Internship 6 hours

Will include methodology seminars that are participant-oriented

4. Prescriptive Plan

The candidate for this program who demonstrates areas of need will complete an individualized prescriptive plan, not to exceed 9 semester hours

Total 24-33 hours

Certification Requirements

Colleges or universities will submit signed statements to the Louisiana Department of Education that indicate the student completing the Non-Degree/Certification-Only alternative certification path met the following requirements:

1. passed the PPST components of the PRAXIS. (Note: This test was required for admission.)

2. Completed all coursework (including the certification program) with an overall 2.5 or higher GPA.

3. Passed the specialty examination (PRAXIS) for the area(s) of certification.

a. Grades PK-3: Elementary Education: Content Knowledge specialty exam (Note: This test was required for admission.)

b. Grades 1-6: Elementary Education: Content Knowledge specialty examination (Note: This test was required for admission.)

c. Grades 4-8: Middle School Education: Content Knowledge specialty examination (Note: This test was required for admission.)

d. Grades 7-12: Specialty content test in areas to be certified. (Note: This test was required for admission.)

e. Mild/Moderate Special Education 1-12: *Special Education*

4. Passed the Principles of Learning and Teaching examination (PRAXIS)

a. Grades PK-3: Principles of Learning and Teaching K-6

b. Grades 1-6: Principles of Learning and Teaching K-6

c. Grades 4-8: Principles of Learning and Teaching 5-9

d. Grades 7-12: Principles of Learning and Teaching 7-12

Universities offering the Non-Master's/Certification-Only alternative certification option are required to begin implementation of the newly adopted paths on or before January 2003.

No students should be accepted into the "old" post-baccalaureate alternate certification program after January 2003. Candidates already in the "old" alternative certification program would be given until January 2006 to complete their programs.

* * *

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

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 746C Louisiana Standards for State Certification of School Personnel Non-Masters/Certification-Only Program Alternative Path to Certification

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

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

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

This policy will have no effect on revenue collections.

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

This policy will not change costs and/or economic benefits for directly affected persons or non-government groups

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The policy will have no effect on competition and employment.

Marlyn J. Langley	H. Gordon Monk
Deputy Superintendent	Staff Director
Management and Finance	Legislative Fiscal Office

0208#093

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Practitioner Teacher Licensure Policy (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This policy prescribes conditions under which the Practitioner Teacher License can be issued to candidates who enter new alternate certification programs. The policy provides revisions to the original Practitioner Teacher Licensure Policy, as follows.

In addition to candidates in the Practitioner Teacher Program, originally the only holders of this license, the new license can be issued to candidates in other new alternate routes—the Master's Degree Program, and the Non-Master's/Certification-Only Program.

All holders of this license will be granted special employment status so that districts will not have these individuals count for or against the district on the Annual School Report or for District Accountability purposes.

The policy is revised to reflect the new licensure structure that became effective July 1, 2002, with Level 1 as the initial license and Level 2 as the next stage of licensure. The old licensure policy had language that reflected the old licensure structure, with Type C as the initial license and Type B as the next stage of licensure.

Title 28
EDUCATION
Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations
§903. Teacher Certification Standards and Regulations

A. Bulletin 746

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975); amended LR 27:825 (June 2001); LR 27:827-828 (June 2001); LR 27:828 (June 2001)

Practitioner Teacher Licensure Policy

A Practitioner Teacher license, renewable yearly for a maximum of three years, will be granted to those candidates who meet all entrance requirements and who are accepted into and enrolled in a State-approved Practitioner Teacher Program, Master's Degree Program, or Non-Master's/Certification-Only Program. Issuance of Practitioner Teacher licenses will require verification from the program provider and the employing system/school. Minimum admission requirements for the Practitioner Teacher Program, the Master's Degree Program, and the Non-Master's/Certification-Only Program stipulate that the candidate hold an undergraduate degree from a regionally accredited university, possess a minimum of a 2.2 GPA, and pass the Pre-Professional Skills Test and Content Specialty Exam of the PRAXIS. Additionally, Practitioner Teacher Program participants must have a teaching assignment in a State-approved Louisiana school in the area of certification being studied.

Practitioner Teacher Program. Candidates will complete an intensive summer training experience prior to assuming a full-time teaching position in a Louisiana classroom. To allow for the summer training experience, employing systems/schools may offer contracts to Practitioner Teacher candidates as early as the spring preceding the school year in which the practitioner will assume a full-time position. It is a responsibility of the employing system/school, working in close collaboration with the program provider, to facilitate and coordinate the placement of practitioner teachers in State-approved schools in teaching areas in which there is an identified need. The participant signs a one-year renewable contract with the school system and/or approved school. The practitioner teacher would be placed, at a minimum, on the same salary schedule as a regularly certified, salaried teacher.

Practitioner Teacher Program, Master's Degree Program, and Non-Master/Certification-Only Program. Practitioner teachers are issued a one-year Practitioner Teacher license, renewable yearly for a maximum of three years. If a candidate withdraws or is dropped from the new alternate program, the Practitioner Teacher license is no longer valid. A practitioner teacher must remain enrolled in the alternate program and fulfill all coursework, teaching assignments (if applicable), and prescribed activities as identified by the program provider. All program requirements must be completed within the three-year period of the license. A practitioner teacher may complete all requirements of the alternate program in fewer than three years.

Once a practitioner teacher has completed all requirements of the alternate program and has been recommended by the program provider, he may apply for a Level 1Teaching Certificate. A practitioner teacher's teaching experience, while holding a Practitioner Teacher license, will count toward the three years of teaching experience requirement that is needed to move from a Level 1 certificate to a Level 2 certificate.

Individuals actively enrolled in the Practitioner Teacher Program, the Master's Degree Program, or in the Non-Master's/Certification-Only Program will be granted special employment status so that districts will not have these individuals count for or against the district on the

Annual School Report or for District Accountability purposes.

* * *

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

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 746C Louisiana Standards for State Certification of School PersonnelC Practitioner Teacher Licensure Policy

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

This policy prescribes conditions under which the Practitioner Teacher License can be issued to candidates who enter new alternate certification programs. The adoption of this policy will cost the Department of Education approximately $700 (printing and postage) to disseminate the policy.

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

This policy will have no effect on revenue collections.

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

This policy will not change costs and/or economic benefits for directly affected persons or non-government groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The policy will have no effect on competition and employment.

Marlyn J. Langley	H. Gordon Monk
Deputy Superintendent	Staff Director
Management and Finance	Legislative Fiscal Office

0208#091

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification of School PersonnelC Practitioner Teacher Program
(LAC 28:I.903)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. Revisions to the Practitioner Teacher Program are as follows:

1. A 2.2 GPA is required for entrance, rather than the originally stated 2.5 GPA;
2. Twelve semester hours of combined internship and seminars are required through this program, rather than the originally stated nine semester hours; and
3. Number of possible prescriptive hours were reduced from 12 to 9.

Title 28
EDUCATION
Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations
§903. Teacher Certification Standards and Regulations

A. Bulletin 746

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975); amended LR 27:825 (June 2001); LR 27:827 (June 2001); LR 27:828 (June 2001), LR 28:

Practitioner Teacher Program

A. Major Components of the Practitioner Teacher Program

1. Universities, school districts, or private providers (e.g., Teach for America) will be able to offer a Practitioner Teacher Program.

2. Individuals will be considered for admission to a Practitioner Teacher Program if they possess a baccalaureate degree from a regionally-accredited university with a 2.2 or higher GPA* and already possess the content knowledge to teach the subject area(s). To demonstrate knowledge of subject area(s), all individuals (with the exception of those who already possess a graduate degree) will be required to pass the Pre-Professional Skills Test (e.g., reading, writing, and mathematics) for the PRAXIS. Teachers of grades 1-6 (regular and special education) must pass the *Elementary Education Content Knowledge* specialty examination of the PRAXIS (#0014), and teachers of grades 4-8 (regular and special education) must pass the *Middle School Content Knowledge* specialty examination (#0146). Teachers of grades 7-12 (regular and special education) must pass the *specialty examination* on the PRAXIS in the content area(s) (e.g., English, mathematics, science, social studies, etc.) in which they intend to be certified. (*Appropriate, successful work experience can be substituted for the required GPA, at the discretion of the program provider.)

3. If admitted to the Practitioner Teacher Program, individuals who intend to be certified to teach grades 1-6, 4-8, or 7-12 must successfully complete nine credit hours (or 135 contact hours) of instruction during the summer prior to the first year of teaching. Practitioner teachers will be exposed to teaching experiences in field-based schools while involved in course work.

4. All practitioner teachers will teach during the regular school year in the area(s) in which they are pursuing certification and participate in 12 credit hours (or 180 contact hours) of seminars and supervised internship during the fall and spring to address their immediate needs. Practitioner teachers will be observed and provided feedback about their teaching from the program provider. In addition, practitioner teachers will be supported by school-based mentors from the Louisiana Assistance and Assessment Program and by principals.

5. Practitioner teachers who complete the required course requirements (or equivalent contact hours) with a 2.5 or higher GPA and demonstrate *proficiency* during their first year of teaching can obtain a Level 2 Professional License

after successfully completing all requirements for the Practitioner Teacher Program (which includes successful completion of the Louisiana Assistance and Assessment Program and passing scores on the PRAXIS) and after completing a total of three years of teaching.

6. Practitioner teachers who successfully complete the required courses (or equivalent contact hours) and demonstrate *weaknesses* during their first year of teaching will be required to complete from one to nine additional credit hours/equivalent contact hours. A team composed of the program provider, school principal, mentor teacher, and practitioner teacher will determine the types of courses and hours to be completed. The number of hours, which will be based upon the extent of the practitioner teachers' needs, must be successfully completed within the next two years. The team will also determine when the practitioner teachers should be assessed for the Louisiana Assistance and Assessment Program during the next two year time period. Additionally, for teachers who successfully completed the Louisiana Assistance and Assessment Program prior to entering the Practitioner Teacher Program, the team will determine if the Louisiana Components of Effective Teaching are still being exhibited by the teacher at the "competent" level and, if so, allow by unanimous decision the teacher to be exempted from completing the Assessment part of the Louisiana Assistance and Assessment Program. The practitioner teachers must successfully complete all requirements for the Practitioner Teacher Program (which includes successful completion of the Louisiana Assistance and Assessment Program and passing scores on the PRAXIS in the specialty areas) and must teach for a total of three years before receiving a Level 2 Professional License.

7. The State's new Teacher Preparation Accountability System will be used to evaluate the effectiveness of all Practitioner Teacher Programs.

B. Structure for a Practitioner Teacher Program

Program Providers

Practitioner Teacher Programs may be developed and administered by

- universities;
- school districts; and
- other agencies (e.g., Teach for America, Troops for Teachers, Regional Service Centers, etc.).

The same State Teacher Preparation Accountability System will be utilized to assess the effectiveness of the Practitioner Teacher Programs provided by universities, school districts, and other agencies.

Program Process

Areas	Course/Contact Hours	Activities	Support
1. Admission To Program (Spring and Early Summer)		Program providers will work with district personnel to identify Practitioner Teacher Program candidates who will be employed by districts during the fall and spring. To be admitted, individuals must a. possess a baccalaureate degree from a regionally accredited university. b. have a 2.2 GPA on undergraduate work. (*Appropriate, successful work experience can be substituted for the required GPA, at the discretion of the program provider.) c. pass the Pre-Professional Skills Test (e.g., reading, writing, and mathematics) on the PRAXIS. (Individuals who already possess a graduate degree will be exempted from this requirement.) d. pass the content specific examinations for the PRAXIS: (1) Practitioner candidates for Grades 1-6 (regular and special education): Pass the *Elementary Education Content Knowledge (#0014)* examination; (2) Practitioner candidates for Grades 4-8 (regular and special education): Pass the *Middle School Content Knowledge* examination (#0146); (3) Practitioner candidates for Grades 7-12 (regular and special education): Pass the *content specialty examination(s)* (e.g., English, mathematics, etc.) on the PRAXIS in the content area(s) in which they intend to teach. e. meet other non-course requirements established by the program providers.	
2. Teaching Preparation (Summer)	9 credit hours or 135 equivalent contact hours (5-8 weeks)	All teachers will participate in field-based experiences in school settings while completing the summer courses (or equivalent contact hours). Grades 1-6, 4-8, and 7-12 practitioner teachers will successfully complete courses (or equivalent contact hours) pertaining to child/adolescent development/psychology, the diverse learner, classroom management/organization, assessment, instructional design, and instructional strategies before starting their teaching internships. Mild/moderate special education teachers will successfully complete courses (or equivalent contact hours) that focus upon the special needs of the mild/moderate exceptional child, classroom management, behavioral management, assessment and evaluation, methods/materials for mild/moderate exceptional children, and vocational and transition services for students with disabilities.	Program Providers

3. Teaching Internship And First Year Support (Fall and Spring)	12 credit hours or 180 equivalent contact hours throughout the year.	Practitioner teachers will assume full-time teaching positions in districts. During the school year, these individuals will participate in two seminars (one seminar during the fall and one seminar during the spring) that address immediate needs of the Practitioner Teacher Program teachers and will receive one-on-one supervision through a year-long internship provided by the program providers. The practitioner teacher will also receive support from school-based mentor teachers (provided by the Louisiana Teacher Assistance and Assessment Program) and principals.	Program Providers, Principals and Mentors
4. Teaching Performance Review (End of First Year)		Program providers, principals, mentors, and practitioner teachers will form teams to review the first year teaching performance of practitioner teachers and to determine the extent to which the practitioner teachers have demonstrated teaching proficiency. If practitioner teachers demonstrate proficiency, they will enter into the assessment portion of the Louisiana Teacher Assistance and Assessment Program during the next fall. (If a practitioner teacher who passed the assessment portion of the Louisiana Teacher Assistance and Assessment Program prior to entering the Practitioner Teacher Program continues to demonstrate the Louisiana Components of Effective Teaching at the "competent" level, the team may, by unanimous decision, exempt the teacher from completing the Assessment part of the Louisiana Assistance and Assessment Program.) If weaknesses are cited, the teams will identify additional types of instruction needed to address the areas of need. Prescriptive plans that require from one to nine credit hours (or 15-135 equivalent contact hours) of instruction will be developed for practitioner teachers. In addition, the teams will determine whether the practitioner teachers should participate in the new teacher assessment during the fall or whether the practitioner teachers should receive additional mentor support and be assessed after the fall.	
5. Prescriptive Plan Implementation (Second Year)	9 credit hours (or 15-135 equivalent hours)	Practitioner teachers who demonstrate areas of need will complete prescriptive plans.	Program Providers
6. Louisiana Assessment Program (Second Year)		Practitioner teachers will be assessed during the fall or later depending upon their teaching proficiencies.	Program Providers
7. Praxis Review (Second Year)		Program providers will offer review sessions to prepare practitioner teachers to pass remaining components of the PRAXIS.	Program Providers
8. Certification Requirements (Requirements must be met within a three-year time period. A practitioner teacher's license will not be renewed if all course requirements are not met within these three years.)		Program providers will submit signed statements to the Louisiana Department of Education to indicate that the practitioner teachers completed Practitioner Teacher Programs and met the following requirements within a three-year time period: 1. passed the PPST components of the PRAXIS. *(Note: This test was required for admission.)* 2. completed the Teaching Preparation and Teaching Internship segments of the program with a 2.5 or higher cumulative GPA. 3. passed the Louisiana Teacher Assistance and Assessment Program. 4. completed prescriptive plans (if weaknesses were demonstrated). 5. passed the specialty examination (PRAXIS) for their area(s) of certification. a. Grades 1-6: *Elementary Education Content Knowledge Examination #0014 (Note: This test was required for admission)* b. Grades 4-8: *Middle School Content Knowledge Exam #0146 (Note: This test was required for admission.)* c. Grades 7-12: *Specialty content test in areas to be certified. (Note: This test was required for admission.)* d. Mild/Moderate Special Education 1-12: *Special Education (to be determined)* 6. passed the *Principals of Learning and Teaching* examination (PRAXIS) a. Grades 1-6: *Principles of Learning and Teaching;* b. Grades 4-8: *Principles of Learning and Teaching;* c. Grades 7-12: *Principles of Learning and Teaching.*	
9. Ongoing Support (Second and Third Year)		Program providers will provide support services to practitioner teachers during their second and third years of teaching. Types of support may include on-line support, Internet resources, special seminars, etc.	Program Providers
10. Professional License (Practitioner License to Level 2)		Practitioner teachers will be issued a Practitioner License when they enter the program. They will be issued a Level 1 Professional License once they have successfully completed all requirements of the program; after three years of teaching they will be eligible for a Level 2 license.	

Undergraduate/Graduate Courses and Graduate Programs

Universities may offer the courses at undergraduate or graduate levels. Efforts should be made to allow students to use graduate hours as electives if the students are pursuing a graduate degree.

* * *

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

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel—Practitioner Teacher Program

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

This policy prescribes conditions under which the Practitioner Teacher License can be issued to candidates who enter new alternate certification programs. The adoption of this policy will cost the Department of Education approximately $700 (printing and postage) to disseminate the policy.

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

This policy will have no effect on revenue collections.

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

This policy will not change costs and/or economic benefits for directly affected persons or non-government groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance

H. Gordon Monk
Staff Director
Legislative Fiscal Office

0208#092

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Types of Teaching Authorizations and Certifications (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This policy prescribes three levels of the Practitioner Teacher License, corresponding to the three new alternate certification pathways, further clarifies the add-on of endorsements via passing the content specialty PRAXIS examination, and amends the Out-of-State Provisional License title to exclude the word "provisional."

The Practitioner Teacher License was originally used only for those admitted to the Practitioner Teacher Program, one of three new alternate pathways (the Practitioner Teacher Program operated as a pilot during SY 2001-2002). This policy brings consistency by specifying the Practitioner Teacher License as appropriate for all three new alternate certification routes to be fully implemented during SY 2002-2003. Further, this policy clarifies the new endorsement option for secondary teaching areas via passing the content specialty PRAXIS examination, and it amends the Out-of-State Provisional License title to exclude the word "provisional" to bring consistency with the new federal No Child Left Behind legislation.

Title 28
EDUCATION
Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations
§903. Teacher Certification Standards and Regulations

A. Bulletin 746

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975); amended LR 27:825-827 (June 2001); LR 27:827-828 (June 2001); LR 27:828-829 (June 2001)

Types of Teaching Authorizations and Certifications

Non-Standard Temporary Authorizations to Teach			
Temporary Authority to Teach (A teacher may hold a one-year Temporary Authorization to Teach for a maximum of three years while pursuing a specific certification area. He/she may not be issued another Temporary Certification at the end of the three years for the same certification unless the Louisiana Department of Education designates the certification area as one that requires extensive hours for completion.)	Districts may recommend that teachers be given one-year temporary authorizations to teach according to the stipulated conditions. Districts must provide a signed affidavit by the local superintendent that "there is no regularly certified, competent, and suitable person available for that position" and that the applicant is the best qualified person for the position.	Conditions	Requirements to renew temporary authorization to teach and/or move to another certification level
		a. Individual who graduates from teacher preparation program but does not pass PRAXIS	Teacher must prepare for the PRAXIS and take the necessary examinations at least twice a year.
		b. Individual who holds a minimum of a baccalaureate degree from a regionally-accredited institution and who applies for admission to a Practitioner Teacher Program or other alternate program but does not pass the PPST or the content specialty examination of the PRAXIS required for admission to the program.	Teacher must successfully complete a minimum of six credit hours per year in the subject area(s) that they are attempting to pass on the PRAXIS; candidate must reapply for admission to a Practitioner Teacher Program or other alternate program.
		c. Individual who holds a minimum of a baccalaureate degree from a regionally-accredited institution and who is hired after the start of the Practitioner Teacher Program	Teacher must apply for admission to a Practitioner Teacher Program or other alternate program and pass the appropriate PRAXIS examinations required for admission to the program.
Practitioner Teacher License One-year license that can be held a maximum of three years, renewable annually.	The District and the alternate certification program provider must identify the individual as a practitioner teacher (PL1), a non-master's alternate certification program teacher (PL2), or a master's alternate certification program teacher (PL3).	Teacher must be admitted to and enrolled in a State-approved Practitioner Teacher Program (PL1), Non-Master's Alternate Certification Program (PL2), or Master's Degree Alternate Certification Program (PL3), which necessitates meeting all program requirements including baccalaureate degree, stipulated GPA, and passing scores on the PRAXIS PPST and content area exams.	The alternate certification teacher (PL1, PL2, and PL3) must remain enrolled in the respective program and fulfill all coursework, teaching assignments, and prescribed activities as identified by the program provider. Program requirements must be completed within the three-year maximum that the license can be held. PL2 and PL3 teachers must demonstrate progress toward program requirements by successfully completing at least 9 semester hours each year to remain on the PL license.

Out-of-Field Authorization to Teach (A teacher may hold a one-year Out-of-Field Authorization to Teach, renewable annually, for a maximum of three years. If the teacher is actively pursuing certification in the field and LDE designates the certification area as one requiring extensive hours for completion, two additional years of annual renewability may be granted.)	District submits application to LDE; renewable annually for maximum of three years. Superintendent of employing district must provide a signed statement that certifies that "there is no regularly certified, competent and suitable person available for the position" and that the applicant is the best-qualified person available for the position.	a. Individual holds a Louisiana teaching certificate, but is teaching outside of the certified area.	Teacher must obtain a prescription/outline of course work required for add-on certification in the area of the teaching assignment. Teacher must successfully complete a minimum of six credit hours per year of courses that lead toward certification in the area in which he/she is teaching; or the secondary-certified teacher who is teaching out-of-field may opt to take and pass the required PRAXIS content specialty examination for the specific 7-12 academic certification area, if the area has been declared as a primary or secondary teaching focus area. The district must support a teacher's efforts in this area.
Temporary Employment Permit	Under condition (a) the district submits application to LDE; renewable annually. Under condition (b) the Individual submits application to LDE; renewable annually.	a. Individual meets all certification requirements, with the exception of passing all portions of the NTE examination, but scores within ten percent of the composite score required for passage of all exams. (Currently classified as EP)	Superintendent and President of the school board to which the individual has applied for employment must submit a signed affidavit to the LDE stipulating that there is no other applicant who has met all of the certification requirements available for employment for a specific teaching position. Such permit shall be in effect for not more than one year, but may be renewed. Such renewal of the permit shall be accomplished in the same manner as the granting of the original permit. The granting of such emergency teaching permit shall not waive the requirement that the person successfully complete the exam. While employed on an emergency teaching permit, employment period does not count toward tenure.
		b. Individual meets all certification requirements, with the exception of passing one of the components of the PRAXIS, but has an aggregate score equal to or above the total required on all tests. (Currently classified as TEP)	Temporary Employment Permits are issued at the request of individuals. All application materials required for issuance of a regular certificate must be submitted to LDE with the application for issuance of a TEP. An individual can be re-issued a permit three times only if evidence is presented that the required test has been retaken within one year from the date the permit was last issued. Beginning with the fifth year, additional documentation must be submitted by the employing district.

Standard Teaching Certifications			
Out of State Certificate	Individual submits application to LDE; valid for three years, non-renewable.	a. A teacher certified in another state who meets all requirements for a Louisiana certificate, except for the PRAXIS examinations.	Teacher must take and pass the appropriate PRAXIS examinations -OR- Teacher provides evidence of at least four years of successful teaching experience in another state, completes one year of employment as a teacher in Louisiana public school systems, and secures recommendation of the local superintendent of the employing school system for continued employment.

Professional Level Certificates (effective for all new certificates issued after July 1, 2002)		
Level 1 Professional Certificate (Three-year term)	Teachers must graduate from a State-approved teacher preparation program (traditional or alternative path), pass PRAXIS, and be recommended by a university to receive a Level 1 Professional Certificate. -OR- Teacher must complete a State-approved Practitioner Teacher Program, pass PRAXIS, and be recommended by the Practitioner Teacher Program provider to receive a Level 1 Professional Certificate. -OR- Teacher must meet the requirements of an out-of-state certified teacher.	A lapsed Level 1 certificate may be extended once for an additional three years, subject to the approval of the Division of Teacher Standards, Assessment, and Certification or upon the presentation of six semester hours of resident, extension, or correspondence credit directly related to the area of certification. However, if the holder of the Level 1 certificate has not been employed regularly as a teacher for at least one semester during a period of five years, his certificate can be reinstated for three years only upon the presentation of 150 hours of professional development.
Level 2 Professional Certificate	Teachers with a Level 1 Professional Certificate must pass the Louisiana Assistance and Assessment Program and teach for three years to receive a Level 2 Professional Certificate.	Teachers must complete 150 clock hours of professional development over a five-year time period in order to have a Level 2 Professional License renewed.
Level 3 Professional Certificate	Teachers with a Level 1 or Level 2 Certificate are eligible for a Level 3 Certificate if they complete a Masters Degree, teach for five years, and pass the Louisiana Assistance and Assessment Program.	Teachers must complete 150 clock hours of professional development over a five-year time period in order to have a Level 3 Professional License renewed.
Standard Teaching Certificates (issued prior to July 1, 2002)		
Type C Certificate	Type C certificates will not be issued after July 1, 2002.	
Type B Certificate Type A Certificate	Candidates currently holding Type A or Type B certificates will continue to hold these certificates, which are valid for life, provided the holder does not allow any period of five or more consecutive years of disuse to accrue and/or the certificate is not revoked by the State Board of Elementary and Secondary Education, acting in accordance with law.	

Process for Renewing Lapsed Professional Certificates

Type C, B, and A Certificates

Type B and Type A certificates will lapse for disuse if the holder thereof allows a period of five consecutive calendar years to pass in which he is not a regularly employed teacher for at least one semester (90 consecutive days). Reinstatement of a lapsed certificate shall be made only on evidence that the holder has earned six semester hours of resident, extension, or correspondence credit in courses approved by the Division of Teacher Standards, Assessment, and Certification or a dean of a Louisiana college of education. The six semester credit hours of extension must be earned during the five-year period immediately preceding reinstatement.

A lapsed Type C certificate may be renewed for an additional three years, subject to the approval of the Division of Teacher Standards, Assessment, and Certification or upon the presentation of six semester hours of credit directly related to the area(s) of certification. Such credit hours shall be resident, extension, or correspondence credit in courses approved by the Division of Teacher Standards, Assessment, and Certification or a dean of a Louisiana college of education. However, if the holder of a Type C certificate has not been employed regularly as a teacher for at least one semester during a period of five years, his certificate can be reinstated for three years only upon the presentation of the six semester hours of credit as described previously in the paragraph.

Level 2 and 3 Certificates

Level 2 and Level 3 professional certificates will lapse (a) for disuse if the holder thereof allows a period of five consecutive calendar years to pass in which he is not a regularly employed teacher for at least one semester (90 consecutive days), or (b) if the holder fails to complete the required number of professional development hours during his employ. Reinstatement of a lapsed certificate shall be made only on evidence that the holder has earned six semester hours of resident, extension, or correspondence credit in courses approved by the Division of Teacher Standards, Assessment, and Certification or a dean of a Louisiana college of education. The six semester credit hours of extension must be earned during the five-year period immediately preceding reinstatement.

* * *

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

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel—Types of Teaching Authorizations and Certifications

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

This policy prescribes three levels of the Practitioner Teacher License, corresponding to the three new alternate certification pathways, further clarifies the add-on of

endorsements via passing the content specialty Praxis examination, and amends the Out-of-State Provisional License title to exclude the word "provisional." The adoption of this policy will cost the Department of Education approximately $700 (printing and postage) to disseminate the policy.

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

This policy will have no effect on revenue collections.

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

This policy will not change costs and/or economic benefits for directly affected persons or non-government groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance

H. Gordon Monk
Staff Director
Legislative Fiscal Office

0208#094

NOTICE OF INTENT

Board of Elementary and Secondary Education

BESE Bulletins and Regulations—Removal from the Louisiana Administrative Code—Bulletin 1868
(LAC 28:I.Chapter 9)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education approved for advertisement the following revision to Title 28, Education. The revision will change the status of Bulletin 1868, *"Personnel Manual of the State Board of Elementary and Secondary Education,"* from a regulatory bulletin to a manual.

Title 28
EDUCATION
Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations

List of Bulletins to be Removed from the Louisiana Administrative Code

Bulletin Number	Bulletin Name
1868	Personnel Manual of the State Board of Elementary and Secondary Education

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

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: BESE Bulletins and Regulations—Removal from the Louisiana Administrative Code—Bulletin 1868

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

This action will have no fiscal effect other than $81.00 for advertising in the State Register.

BESE is changing the status of Bulletin 1868 to a Manual. This document applies only to personnel under the jurisdiction of BESE, therefore it does not require Bulletin status.

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

This action will have no effect on revenue collections of state and local governmental units.

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

This action will have no effect on cost and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This action will have no effect on competition and employment.

Weegie Peabody
Executive Director

H. Gordon Monk
Staff Director
Legislative Fiscal Office

0208#095

NOTICE OF INTENT

Board of Elementary and Secondary Education

BESE Bulletins and Regulations—Removal from the Louisiana Administrative Code—Bulletin 1905
(LAC 28:I.Chapter 9)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education approved for advertisement the following revision to Title 28, Education. The revision will remove from the Louisiana Administrative Code Bulletin 1905, *Reading, Writing, Speaking, and Listening Activities for Louisiana Technology Education Program*, which is obsolete.

Title 28
EDUCATION
Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
Subchapter A. Bulletins and Regulations

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

Bulletin Number	Bulletin Name
1905	Reading, Writing, Speaking, and Listening Activities for Louisiana Technology Education Programs.

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

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: BESE Bulletins and Regulations C Removal from the Louisiana Administrative Code C Bulletin 1905

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

This action will have no fiscal effect other than $81 for advertising in the *State Register*.

The State Department of Education has determined Louisiana Administrative Code Bulletin 1905 C *Reading, Writing, Speaking, and Listening Activities for Louisiana Technology Education Programs* to be obsolete.

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

This action will have no effect on revenue collections of state and local governmental units.

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

This action will have no effect on cost and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This action will have no effect on competition and employment.

Weegie Peabody	H. Gordon Monk
Executive Director	Staff Director
0208#027	Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Vocational and Vocational-Technical Education
(LAC 28:I.1501-1529)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education approved for advertisement the repeal of Chapter 15, Vocational and Vocational-Technical Education, from the *Louisiana Administrative Code*. This action is necessary because Vocational Education and Vocational-Technical Education is no longer under the jurisdiction of the Board of Elementary and Secondary Education.

Title 28
EDUCATION
Part I. Board of Elementary and Secondary Education
Chapter 15. Vocational and Vocational-Technical Education
Subchapter A. Vocational Education

§1501. General Policies

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:4, R.S. 17:6(A), R.S. 17:7(5), R.S. 17:10(A), R.S. 17:22(2), R.S. 17:1992, R.S. 17:2031-2036.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:541 (December 1975), amended LR 8:644 (December 1982), LR 16:297 (April 1990), repealed LR 28:

Subchapter B. Vocational-Technical Education

§1503. Purpose; Objectives

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:4, R.S. 17:6(A), R.S. 17:7(5), R.S. 17:10(A), R.S. 17:1991-2007.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:541 (December 1975), amended LR 11:1137 (December 1985), LR 16:297 (April 1990), repealed LR 28:

§1505. Office of Vocational Education

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(B), R.S. 17:1992, R.S. 17:1993, R.S. 17:1995, R.S. 39:330.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 2:317 (October 1976), amended LR 16:297 (April 1990), repealed LR 28:

§1507. State Advisory Council

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 20 USC 2322.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 3:404 (October 1977), amended LR 16:297 (April 1990), repealed LR 28:

§1509. Regional Management System

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1994, R.S. 17:1995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:310 (July 1975), amended LR 13:84 (February 1987), LR 16:297 (April 1990), repealed LR 28:

§1511. Local Advisory Bodies

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:1998, SCR 77 of 1974.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 16:297 (April 1990), repealed LR 28:

§1515. Commission on Occupational Education

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R S. 17:6(A)(10), R.S. 17:10(A).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 21:259 (March 1995), repealed LR 28:

§1517. Staffing

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:7(6), R.S. 17:1993(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 3:404 (October 1977), amended LR 11:685 (July 1985), LR 12:830 (December 1986). LR 16:297 (April 1990), repealed LR 28:

§1521. Operations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:2003, R.S. 17:2006.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 3:404 (October 1977),

amended LR 4:359 (October 1978), LR 8:234 (May 1982), LR 12:763 (November 1986), LR 13:94 (February 1987), LR 14:11 (January 1988), LR 15:962 (November 1989), LR 16:297 (April 1990), LR 21:676 (July 1995), repealed LR 28:

§1523. Students

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and (11); R.S. 17:1997.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 3:404 (October 1977), amended LR 4:240 (July 1978), LR 6:650 (November 1980), LR 8:323 (July 1980), LR 9:209 (April 1983), LR 10:200 (March 1984), LR 11:617 (June 1985), LR 11:1065 (November 1985), LR 11:1138 (December 1985); LR 12:14 (January 1986), LR 12:92 February 1986), LR 12:667 (October 1986), LR 12:830 (December 1986), LR 13:84 (February 1987), LR 13:160 (March 1987), LR 14:11, 12 (January 1988), LR 14:409 (July 1988), LR 14:704 (October 1988), LR 14:790 (November 1988), LR 16:297 (April 1990), LR 16:768 (September 1990), LR 17:589 (June 1991), LR 17:957 (October 1991), LR 18:29, 30 (January 1992), LR 19:1550, 1551 (December 1993), LR 1:464 (May 1995), LR 22:809 (September 1996), LR 24:297 (February 1998), LR 25:425 (March 1999), repealed LR 28:

§1525. Institute/Regional Management Center Calendars

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:1992, R.S. 17:1993, R.S. 17:3902.B(4).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 9:635 (December 1983), amended LR 16:297 (April 1990), LR 21:462 (May 1995), repealed LR 28:

§1527. Courses; Classes; Programs; Visits

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1994.1, R.S. 17:1995, R.S. 17:2002, R.S. 17:2007.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 3:404 (October 1977), amended LR 5:96 (May 1979), LR 8:314 (May 1982), LR 8:323 (July 1982), LR 9:255 (April 1983), LR 9:411 (June 1983), LR 9:614 (September 1983), LR 10:661 (September 1984), LR 11:686 (July 1985), LR 11:1137 (December 1985), LR 16:297 (April 1990), LR 17:879 (September 1991), LR 17:957 (October 1991), LR 18:27 (January 1992), LR 18:602 (June 1992), LR 19:614 (May 1993), LR 19:739 (June 1993), LR 19:1309 (October 1993), LR 19:1417 (November 1993), LR 20:161 (February 1994), LR 21:168 (February 1995), LR 21:677 (July 1995), repealed LR 28:

§1529. JTPA Projects

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24, 29 USCA 1501 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 4:489 (December 1978), amended LR 16:297 (April 1990), repealed LR 28:

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

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Vocational and Vocational-Technical Education

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

This action will have no fiscal effect other than $81 for advertising in the *State Register*.

BESE is no longer responsible for oversight of the Vo-Tech System. As a result, the Board is in the process of repealing references and regulations created by BESE during its Vo-Tech oversight period. Louisiana Administrative Code 28:I.1501-1529 are some of the Vo-Tech regulations which the Board wishes to repeal.

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

This action will have no effect on revenue collections of state and local governmental units.

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

This action will have no effect on cost and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This action will have no effect on competition and employment.

Weegie Peabody	H. Gordon Monk
Executive Director	Staff Director
0208#056	Legislative Fiscal Office

NOTICE OF INTENT

Student Financial Assistance Commission
Office of Student Finanical Assistance

Scholarship/Grant Programs
(LAC 28:IV 301, 701, 703, 705, 805, 903, 1301, 1903, 2103, 2107, 2109, 2303

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

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

Title 28
EDUCATION
Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs
Chapter 3. Definitions
§301. Definitions

* * *

Exceptional Child—a student defined as an exceptional child in accordance with R.S. 17:1943(4), excluding gifted and talented.

* * *

*Full-Time Student*C

a. - b. ...

c. for continuation purposes, a student is considered to have met the full-time requirement if by the completion of the academic year he has earned at least 24 hours of total credit as reported by the institution for the fall and spring semesters at institutions defining 12 semester hours as the minimum for standing as a full-time undergraduate or as reported by the institution for the fall, winter and spring quarters at institutions defining 8 quarter hours as the minimum for standing as a full-time undergraduate. For purposes of TOPS and except where specified otherwise within these rules, a student shall be credited for hours earned as reported by the institution which the student attends in accordance with that institution's published policies. Students should be aware that these policies may differ depending on the school the student attends. (see §§705.A., 705.D., 805.A., and 907.A. for more expanded TOPS requirements);

d - g. ...

* * *

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

HISTORICAL NOTE: Promulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458, 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR26:1262 (June 2000), LR 26:1601 (July 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26: 2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1842, 1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:

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

§701. General Provisions

A. - E.7. ...

8. Students funded under the Tuition Assistance Plan (TAP) or the Louisiana Honors Scholarship program during the 1997-98 award year, who lost eligibility due to their failure to maintain the required grade point average, shall be continued as TOPS Opportunity or Performance recipients, respectively, however, their eligibility for an award shall be suspended pending their satisfaction of the continuation requirements of §705.A.7 and 8. If a student satisfies the applicable requirements of §705.A.7 and 8 no later than the end of the 2000 Spring Semester, he/she shall be eligible for reinstatement of the award in accordance with §705.B, for the semester following the satisfaction of the requirements of §705.A.7 and 8.

E.8. - G.2. ...

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

HISTORICAL NOTE: Promulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 25:256 (February 1999) LR 26:67 (January 2000), LR 26:1262 (June 2000), LR 26:1995, 2000 (September 2000), repromulgated LR 27:1848 (November 2001), amended LR 28:447 (March 2002), LR 28:

§703. Establishing Eligibility

A. - A.4.b. …

c. if the student is eligible under the provisions of §703.A.5.d or e, enroll not later than the semester or term, excluding summer semesters or sessions, immediately following the first anniversary of the date the student completes the home study program, which is deemed to be May 31; or

d. if the student is eligible under the provisions of §703.A.5.d or e, and has joined and is on active duty with the United States Armed Forces within one year of completion of the twelfth grade of an approved home study program, enroll not later than the semester or term, excluding summer semesters or sessions, immediately following the fifth anniversary of the completion of the approved home study program or within one year from the date of discharge, whichever is earlier; or

A.4.d. - D. ...

E. Students graduating in academic years 1996-97 and 1997-98 who qualified by reduction of the foreign language requirement must provide LASFAC a copy of their college transcript showing completion of one or more foreign language courses. Eligibility for an award is not established until receipt of the transcript verifying that the foreign language credit was earned and the student shall first be awarded for the semester or term following that in which eligibility was established. Under this provision, eligibility must be established not later than the conclusion of the 1998-99 award year.

F. - G.2. ...

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

HISTORICAL NOTE: Promulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 25:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602, 1998 (August 2000), LR 26:1996, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), LR 27:1850 (November 2001), LR 28:772 (April 2002), LR:28:

§705. Maintaining Eligibility

A. - A.11. …

B. Students failing to meet the requirements listed in §705.A.7 or §705.A.8.a, b, or c may have their tuition awards reinstated upon regaining Steady Academic Progress (See §301.) and/or attainment of the required GPA, if the period of ineligibility did not persist for more than two years from the date of loss of eligibility. Students who fail to meet the continuation requirements of §705.A.8.c., but who meet the continuation requirements of §705.A.8.a or b., shall no longer be eligible for the stipend authorized for the Performance and Honors Awards, but shall continue to receive the award amount for the Opportunity Award.

C. - D. …

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

HISTORICAL NOTE: Promulgated LR 24:637 (April 1998), amended LR 24:1904 (October 1998), LR 25:257 (February 1999); LR 25:656 (April 1999), LR 25:1091 (June 1999), LR 26:67 (January 2000), LR 26:688 (April 2000), LR 26:1996, 2001 (September 2000), LR 27:1853 (November 2001), LR 28:447 (March 2002), LR 28:772 (April 2002), LR 28:

Chapter 8. TOPS-TECH Award

§805. Maintaining Eligibility

A. - A.8. ...

B. Students failing to meet the requirements listed in §805.A.7 and 8 may have their tuition awards reinstated

upon achieving Steady Academic Progress, as defined in §301, and the attainment of the required grade point average, if the period of ineligibility did not persist for more than one year from the date of loss of eligibility

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1905 (October 1998) LR 25:1091 (June 1999), LR 26:68 (January 2000), LR 26:689 (April 2000), LR 26:1997, 2002 (September 2000), LR 27:1856 (November 2001), LR 28:774 (April 2002), LR 28:

Chapter 9. TOPS Teacher Award

§903. Establishing Eligibility

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

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

A.4.a.ii. - A.8. ...

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

HISTORICAL NOTE: Promulgated LR 24:637 (April 1998), amended LR 24:1906 (October 1998), LR 26:68 (January 2000), LR 26:2269 (October 2000), LR 27:284 (March 2001), LR 27:1220 (August 2001), repromulgated LR 27:1135 (November 2001), LR 28:448 (March 2002), LR 28:774 (April 2002), LR 28:

Chapter 13. Leveraging Educational Assistance Partnership (LEAP)

§1301. General Provisions

A. - B. ...

C. Louisiana administers a decentralized LEAP Program. Certain functions of the program are delegated to participating schools. Schools approved for participation in the Louisiana LEAP Program must have federal eligibility and must annually submit a state application and be approved for state participation. Funding available for a specific award year is allocated to eligible in-state postsecondary institutions who select and certify recipients to LASFAC. LASFAC forwards award funding to the institutions for disbursement to the student or student's account.

D. - F. ...

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

HISTORICAL NOTE: Promulgated LR 24:641 (April 1998), amended LR 24:1910 (October 1998), LR 25:1458 (August 1999), repromulgated LR 27:1860 (November 2001), LR 28:

Chapter 19. Eligibility and Responsibilities of Postsecondary Institutions

§1903. Responsibilities of Postsecondary Institutions

A. - B.7.b. ...

8. Before applying a TOPS award to pay a student's tuition, institutions shall first apply the student's "out-of-pocket" payments, including student loans, toward tuition charges. In those cases when a student's tuition as defined in 26 U.S.C. 25A is paid from a source other than the TOPS award, the institution shall apply the TOPS award toward payment of expenses other than tuition which are described in the term "cost of attendance" as that term is defined in 20 U.S.C. 1087 11, as amended, for the purpose of qualifying the student or his parent or guardian for the federal income tax credits provided for under 26 U.S.C. 25A.

C. - G. ...

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

HISTORICAL NOTE: Promulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:1998, 2002 (September 2000), LR 27:1864 (November 2001), LR 28:448 (March 2002), LR 28:

Chapter 21. Miscellaneous Provisions and Exceptions

§2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements

A. - E.1.b.ii. ...

c. Maximum Length of Exception. Up to two consecutive semesters (three consecutive quarters) per pregnancy.

E.2. - E.11.a. ...

i. The following situations are not exceptional circumstances:

E.11.a.i.(a) - E.11.c. ...

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

HISTORICAL NOTE: Promulgated LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1017 (May 2000), LR 26:2004 (September 2000), LR 27:37 (January 2001), LR 27:1875 (October 2001), LR 27:1866 (November 2001), LR 289:46 (January 2002), LR 28:449 (March 2002), LR 28:775 (April 2002), LR 28:

§2107. Funding and Fees

A. - C.2.a. ...

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

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

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

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

iv. students who completed an Approved Home Study Program.

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

d. After the elimination of students in §2107.C.2.a, if funds are sufficient to award all students who were eligible prior to the Act of the 1998 First Extraordinary Session of the Legislature, but are insufficient to award all students made eligible under such Act and listed in §2107.C.2.b, then

those students made eligible by such Act shall be rendered ineligible by application of §2107.C.2.c, above, until funds available are sufficient to award all remaining students.

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

D. - E. ...

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

HISTORICAL NOTE: Promulgated LR 24:649 (April 1998), amended LR 24:1919 (October 1998), LR 26:1998 (September 2000)., repromulgated LR 27:1869 (November 2001), LR 28:449 (March 2002), LR 28:777 (April 2002), LR 28:

§2109. Agency Decisions Subject to Appeal

A. Right of Appeal

1. A person aggrieved by an adverse decision of LOSFA under §2103.E.11.a.ii may appeal the decision in accordance with the procedures provided in this section.

A.2. - A.3. ...

B. Notice of Adverse Decision

1. Notice of an adverse decision by LOSFA under §2103.E.11.a.ii must be transmitted in writing to the applicant or participant. The notice must state with reasonable specificity the decision and the reason for the decision, state that the decision may be appealed, and set forth the procedure for submission of an appeal.

C. - D.9. ...

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

HISTORICAL NOTE: Promulgated LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1261 (June 2000). repromulgated LR 27:1870 (November 2001), LR 28:

Chapter 23. Tuition Payment Program for Medical School Students

§2303. Establishing Eligibility

A. - A.4. ...

5. agree to the full time practice of the profession of medicine as a primary care physician in a Designated Area for at least two consecutive years after graduating from medical school and completing a residency program in a primary care field as defined in §2303.A.4 above; and

A.6 - A.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3041.10-3041.15.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1461 (August 1999) LR 25:2177 (November 1999), LR 26:2754 (December 2000), LR 27:1220 (August 2001), repromulgated LR 27:1872 (November 2001), LR 28:777 (April 2002), LR 28:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., October 20, 2002, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

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

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

No additional costs are anticipated to implement these changes.

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

No impact on revenue collections is anticipated to result from these rule changes.

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

The rule change will clarify requirements and correct citations which because of previous revisions to the rules are not correct.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

George Badge Eldredge
General Counsel
0208#047

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division

Correction to 2001 IBR of 40 CFR Parts 60, 61, and 63
(LAC 33:III.3003, 5116, 5122, and 5311)(AQ229*)

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 Air regulations, LAC 33:III.3003, 5116, 5122, and 5311 (Log #AQ229*).

This proposed rule is identical to federal regulations found in 40 CFR 60, 61, and 63, July 1, 2001, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953.F(3) and (4).

This rulemaking corrects inadvertent errors made in earlier rulemaking to update the incorporation by reference (IBR) of 40 CFR Parts 60, 61, and 63. Earlier IBR rulemaking did not list new additions to the *Code of Federal Regulations*, July 1, 2001. Additional changes are included to follow the IBR rulemaking procedure. The basis and rationale for this rule are to mirror the federal regulations, with the exception of 40 CFR 63, Subpart S.

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 III. Air

Chapter 30. Standards of Performance for New Stationary Sources (NSPS)

Subchapter A. Incorporation by Reference (IBR)

§3003. IBR 40 Code of Federal Regulations (CFR) Part 60

A. Except as modified in this Section, regulations at 40 CFR Part 60, as revised July 1, 2001, are hereby incorporated by reference as they apply to the state of Louisiana.

Table 1**C** Repealed.

Table 1.A**C** Repealed.

B. - B.4. …

5. programs in compliance with 40 CFR 60.2635, the department shall accept accreditation approved by other states complying with 40 CFR 60.2635. 5. The department's emission guideline plan, required by the Clean Air Act (CAA), Section 111(d), for Hospital/Medical/Infectious Waste Incinerators includes the following CFR citations: 40 CFR 60.30, 60.30(e), 60.31(e), 60.32(e), 60.33(e), 60.35(e), 60.36(e), 60.37(e), 60.38(e), and 60.39(e). Until the department has a mechanism to approve training programs in compliance with 40 CFR 60.34(e), the department accepts accreditation approved by other states complying with 40 CFR 60.34(e).

6. The department's emission guideline plan, required by the CAA, Section 111(d), for Commercial and Industrial Solid Waste Incineration (CISWI) Units includes 40 CFR 60.2575-60.2630, 60.2640-60.2875, and Tables 1-5. Until the department has a mechanism to approve training programs in compliance with 40 CFR 60.2635, the department shall accept accreditation approved by other states complying with 40 CFR 60.2635.

C. Copies of documents incorporated by reference in this Chapter may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., 20242, or their website, www.access.gpo.gov/nara/cfr/index.html, the Department of Environmental Quality, Office of Environmental Services, Permits Division, or a public library.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), LR 25:1239 (July 1999), LR 25:1797 (October 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1607 (August 2000), LR 26:2460 (November 2000), LR 26:2608 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 28

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter B. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

§5116. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

A. - Table. …

B. Modifications or Exceptions. The following modifications or exceptions are made to the incorporated federal standards.

1. 40 CFR Part 61, Subpart A, Section 61.04(b)(T) is modified to read as follows: Louisiana Department of Environmental Quality, Office of Environmental Services, Permits Division.

2. Whenever the referenced regulations (i.e., 40 CFR Part 61) provide authority to "the Administrator," such authority, in accordance with these regulations, shall be exercised by the administrative authority or his designee, notwithstanding any authority exercised by the U.S. Environmental Protection Agency (EPA). Reports, notices, or other documentation required by the referenced regulations (i.e., 40 CFR Part 61) to be provided to "the Administrator" shall be provided to the Office of Environmental Services, Permits Division where the state is designated authority by EPA as "the Administrator" or shall be provided to the Office of Environmental Services, Permits Division and EPA where EPA retains authority as "the Administrator."

C. Copies of documents incorporated by reference in this Chapter may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20242 or their website, www.access.gpo.gov/nara/cfr/index.html, the Department of Environmental Quality, Office of Environmental Services, Permits Division, or a public library.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1658 (December 1997), LR 24:1278 (July 1998), LR 25:1464 (August 1999), LR 25:1797 (October 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28: 995 (May 2002), LR 28

Subchapter C. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources

§5122. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories published in the *Code of Federal Regulations* at 40 CFR Part 63, dated July 1, 2001, are hereby incorporated by reference as they apply to major sources in the state of Louisiana. Also incorporated by reference is EPA rule entitled "National Emission Standards for Hazardous Air Pollutants for Source Categories: General Provisions and Requirements for Control Technology Determinations for Major Sources in Accordance with Clean Air Act Sections, Sections 112(g) and 112(j)," promulgated on April 5, 2002, in the *Federal Register*, 57 FR 16595-16611.

Note: Table is being deleted

B. Copies of documents incorporated by reference in this Chapter may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington,

D.C. 20242 or their website, www.access.gpo.gov/nara/cfr/index.html, the Department of Environmental Quality, Office of Environmental Services, Permits Division, or a public library.

C. Modifications or Exceptions. The following modifications or exceptions are made to the incorporated federal standards.

1. Whenever the referenced regulations (i.e., 40 CFR Part 63) provide authority to "the Administrator," such authority, in accordance with these regulations, shall be exercised by the administrative authority or his designee, notwithstanding any authority exercised by the U.S. Environmental Protection Agency (EPA). Reports, notices, or other documentation required by the referenced regulations (i.e., 40 CFR Part 63) to be provided to "the Administrator" shall be provided to the Office of Environmental Services, Permits Division where the state is designated authority by EPA as "the Administrator" or shall be provided to the Office of Environmental Services, Permits Division and EPA where EPA retains authority as "the Administrator."

2. In Section 63.440(d)(1) of 40 CFR 63, Subpart S, National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry, the requirement is modified to read, "Each kraft pulping system shall achieve compliance with the pulping system provisions of Section 63.443 for the equipment listed in Section 63.443(a)(1)(ii)–(v), as expeditiously as practicable, but in no event later than December 20, 2004, and the owners and operators shall establish dates, update dates, and report the dates for the milestones specified in Section 63.455(b)."

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), LR 25:1464 (August 1999), LR 25:1798 (October 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:690 (April 2000), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28

Chapter 53. Area Sources of Toxic Air Pollutants

Subchapter B. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Area Sources

§5311. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Area Sources

A. - Table. …

B. Copies of documents incorporated by reference in this Chapter may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20242 or their website, www.access.gpo.gov/nara/cfr/index.html, the Department of Environmental Quality, Office of Environmental Services, Permits Division, or a public library.

C. Modifications or Exceptions. Whenever the referenced regulations (i.e., 40 CFR Part 63) provide authority to "the Administrator," such authority, in accordance with these regulations, shall be exercised by the administrative authority or his designee, notwithstanding any authority exercised by the U.S. Environmental Protection Agency (EPA). Reports, notices, or other documentation required by the referenced regulations (i.e., 40 CFR Part 63) to be provided to "the Administrator" shall be provided to the Office of Environmental Services, Permits Division where the state is designated authority by EPA as "the Administrator" or shall be provided to the Office of Environmental Services, Permits Division and EPA where EPA retains authority as "the Administrator."

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:63 (January 1997), amended LR 23:1660 (December 1997), LR 24:1279 (July 1998), LR 25:1464 (August 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28

A public hearing will be held on September 24, 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 AQ229*. Such comments must be received no later than September 24, 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 e-mail to patsyd@deq.state.la.us. The comment period for this rule ends on the same date as the public hearing. 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 AQ229*.

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; 1823 Highway 546, West Monroe, LA 71292; 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; 111 New Center Drive, 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

0208#103

NOTICE OF INTENT

Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division

Lead-Based Paint Activities
(LAC 33:III.2801-2811 and 2817)(AQ228)

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 Air regulations, LAC 33:III.2801-2811 and 2817 (Log #AQ228).

LAC 33:III.Chapter 28 addresses lead-based paint activities, including inspections, risk assessments, and abatements, in target housing and child-occupied facilities. This revision includes definitions, clearance levels, and other requirements to assimilate language from the federal lead-based paint activities rule amendments in 40 CFR 745, Subpart D. States with EPA-authorized programs must incorporate the federal language into their regulations by February 5, 2003, to maintain program authorization. Other revisions are being made to clarify requirements related to recognition of training providers and accreditation of individuals, relative to dialogues with other states that operate EPA-authorized programs, members of the regulated community, and EPA. The basis and rationale for this Rule are to match the federal regulations and clarify the existing requirements.

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 III. Air

Chapter 28. Lead-Based Paint Activities C Recognition, Accreditation, Licensure, and Standards for Conducting Lead-Based Paint Activities

§2801. Scope and Applicability

A. …

B. This Chapter applies to all persons and contractors who are engaged in lead-based paint activities in target housing and child-occupied facilities, as defined in LAC 33:III.2803, except persons who perform these activities within residential dwellings that they own, unless the residential dwelling is occupied by a person or persons other than the owner or the owner's immediate family while these activities are being performed, or a child residing in the building has been identified as having an elevated blood lead level.

C. - G. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1662 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

§2803. Definitions

A. The terms used in this Chapter are defined in LAC 33:III.111 of these regulations with the exception of those terms specifically defined in this Section as follows.

*Abatement*C any measure or set of measures designed to permanently eliminate lead-based paint hazards. Abatement includes, but is not limited to:

a. the removal of paint and dust, the permanent enclosure or encapsulation of lead-based paint, the replacement of painted surfaces or fixtures, or the removal or permanent covering of soil when lead-based paint hazards are present in such paint, dust, or soil; and

b. all preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures.

* * *

*Arithmetic Mean*C the algebraic sum of data values divided by the number of data values (e.g., the sum of the concentration of lead in several soil samples divided by the number of samples).

* * *

*Chewable Surface*C an interior or exterior surface painted with lead-based paint that a young child can mouth or chew. Hard metal substrates and other materials that cannot be dented by the bite of a young child are not considered chewable.

* * *

*Composite Sample*C a collection of more than one sample of the same medium (such as dust, soil, or paint) from the same type surface (such as floor, interior window sill, or window trough), such that multiple samples can be analyzed as a single sample.

*Concentration*C the relative content of a specific substance contained within a larger mass, such as the amount of lead (in micrograms per gram or parts per million by weight) in a sample of dust or soil.

* * *

*Deteriorated Paint*C any interior or exterior paint or other coating that is chalking, cracking, flaking, chipping, peeling, or otherwise separating from the substrate of a building component.

* * *

*Documented Methodologies*C methods or protocols used to sample for the presence of lead in paint, dust, and soil. Documented methodologies that are appropriate to use for target housing and child-occupied facilities may be found in the American Society of Testing and Materials procedures, ASTM E1727, E1728, and E1792; the U.S. Department of Housing and Urban Development (HUD) *Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing* (HUD-006700); the EPA *Guidance on Identification of Lead-Based Paint Hazards; Notice (FR 47248, Volume 60, Number 175)*; the EPA *Residential Sampling for Lead: Protocols for Dust and Soil Sampling* (EPA report number 747-R-95-001); and other EPA or HUD guidance.

*Dripline*C the area within 3 feet surrounding the perimeter of a building.

*Dry Sanding or Dry Scraping*C sanding or scraping without moisture and includes both hand and machine

sanding. These practices are prohibited when removing lead-based paint (see LAC 33:III.2811.E.6).

Dust-Lead Hazard—surface dust in a residential building or child-occupied facility, or their exteriors, that contains a mass-per-area concentration of lead equal to or exceeding 40 micrograms per square foot or 250 micrograms per square foot on window sills based on wipe samples.

* * *

Friction Surface—an interior or exterior surface that is subject to abrasion or friction including, but not limited to, certain window, floor, and stair surfaces.

* * *

Impact Surface—an interior or exterior surface that is subject to damage by repeated sudden force, such as certain parts of door frames.

* * *

Lead-Based Paint Hazard—paint-lead hazards, dust-lead hazards, or soil-lead hazards as defined in this Section. For the purposes of this Chapter, *lead-based paint hazard* is equivalent to *lead hazard* as defined in R.S. 30:2351.1.

* * *

Loading—the quantity of a specific substance present per unit of surface area, such as the amount of lead in micrograms contained in the dust collected from a certain surface area divided by the surface area in square feet or square meters.

Mid-Yard—an area of residential yard approximately midway between the dripline of a residential building and the nearest property boundary or between driplines of a residential building and another building on the same property.

* * *

Paint-Lead Hazard—

a. any lead-based paint on a friction surface that is subject to abrasion and where the lead dust levels on the nearest horizontal surface underneath the friction surface (e.g., the window sill or floor) are equal to or greater than the dust-lead hazard levels identified in this Chapter;

b. any damaged or otherwise deteriorated lead-based paint on an impact surface that is caused by impact from a related building component (such as a door knob that knocks into a wall or a door that knocks against its door frame);

c. any chewable lead-based painted surface on which there is evidence of teeth marks; and

d. any other deteriorated lead-based paint in any residential building or child-occupied facility or on the exterior of any residential building or child-occupied facility.

Play Area—an area of frequent soil contact by children six years of age or less as indicated by, but not limited to, such factors including the following: the presence of play equipment (e.g., sandboxes, swing sets, and sliding boards), toys, or other children's possessions, observations of play patterns, or information provided by parents, residents, care givers, or property owners.

* * *

Residential Building—a building containing one or more residential dwellings.

* * *

Room—a separate part of the inside of a building, such as a bedroom, living room, dining room, kitchen, bathroom, laundry room, or utility room. To be considered a separate room, the room must be separated from adjoining rooms by built-in walls or archways that extend at least 6 inches from an intersecting wall. Half walls or bookcases count as room separators if built-in. Movable or collapsible partitions or partitions consisting solely of shelves or cabinets are not considered built-in walls. A screened in porch that is used as a living area is a room.

Soil-Lead Hazard—bare soil on residential real property or on the property of a child-occupied facility that contains total lead equal to or exceeding 400 parts per million (micrograms per gram) in a play area or average of 1,200 parts per million of bare soil in the rest of the yard based on soil samples.

Soil Sample—a sample collected in a representative location using ASTM E1727, *Standard Practice for Field Collection of Soil Samples for Lead Determination* by Atomic Spectrometry Techniques, or equivalent method.

Substrate—the material directly beneath the painted surface out of which the components are constructed, including wood, drywall, plaster, brick, concrete, and metal.

* * *

Weighted Arithmetic Mean—the arithmetic mean of sample results weighted by the number of subsamples in each sample. Its purpose is to give influence to a sample relative to the surface area it represents. A single surface sample is comprised of a single subsample. A composite sample may contain from two to four subsamples of the same area as each other and of each single surface sample in the composite. The weighted arithmetic mean is obtained by summing, for all samples, the product of the sample's result multiplied by the number of subsamples in the sample and dividing the sum by the total number of subsamples contained in all samples. For example, the weighted arithmetic mean of a single surface sample containing 60 micrograms per square foot, a composite sample (three subsamples) containing 100 micrograms per square foot, and a composite sample (4 subsamples) containing 110 micrograms per square foot is 100 micrograms per square foot. This result is based on the equation [60+(3*100)+(4*110)]/(1+3+4).

Wet Sanding or Wet Scraping—a process to remove loose paint in which the painted surface to be sanded or scraped is kept wet to minimize the dispersal of paint chips and airborne dust.

* * *

Wipe Sample—a sample collected by wiping a representative surface of known area, as determined by ASTM E1728, *Standard Practice for Field Collection of Settled Dust Samples Using Wipe Sampling Methods for Lead Determination by Atomic Spectrometry Techniques*, or equivalent method, with an acceptable wipe material as defined in ASTM E1792, *Standard Specification for Wipe Sampling Materials for Lead in Surface Dust*, or equivalent method.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1663 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

§2805. Recognition and Standards for Training Providers

A. - A.1. …

2. a training provider seeking recognition shall submit to the Office of Environmental Services, Permits Division the appropriate fees, as required in LAC 33:III.223, a completed LPF-4 form, and a completed LPF-5 form for each trainer to be recognized, containing the following information:

A.2.a. - B.2.a. …

b. training in the lead courses they are teaching;

c. current accreditation in the disciplines in which they instruct (lead worker course instructors shall maintain supervisor accreditation); and

d. at least one year of experience, education, or training in lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene;

B.3. …

4. the following items shall be recognized by the department as evidence that training managers and principal instructors have the relevant education, work experience, training requirements, accreditations, and demonstrated experience:

B.4.a. …

b. résumés, letters of reference, or documentation of work experience, as evidence of meeting the work experience requirements;

c. certificates from train-the-trainer courses, lead-specific training courses, and accreditations, as evidence of meeting the training requirements; and

d. principal instructors who were recognized initially based on training, education, and demonstrated work experience must provide current accreditation certificates in the appropriate disciplines by July 1, 2003, as required by Subparagraph B.2.c of this Section;

B.5. - C.2.c. …

d. visual inspection for the purposes of identifying potential hazards associated with lead-based paint, dust-lead hazards, and soil-lead hazards;*

C.2.e. - C.5.h. …

D. Renewal of Training Provider's Recognition

1. A training provider seeking renewal of its recognition shall submit, along with the appropriate fees as required in LAC 33:III.223, a completed IPF-4 form and a completed LPF-5 form for each trainer to be recognized to the Office of Environmental Services, Permits Division, 60 days prior to its expiration date. If a training provider does not submit its renewal application by that date, the department cannot guarantee the application will be reviewed and acted upon before the end of the one-year period.

D.2. - E.2. …

3. the department shall be notified in writing of course location and time changes or cancellations 24 hours prior to the initial class day;

E.4 - G.4. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1666 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2459 (November 2000), LR 28:

§2807. Accreditation of Individuals

A. - A.3. …

4. After November 30, 1998, individuals seeking accreditation in the lead inspector, risk assessor, lead project supervisor, or lead project designer disciplines must pass the applicable state examination given by the department or its proxy. Individuals must pass the state examination, with a score of 70 percent or above, within six months of receiving a course completion certificate. Individuals who fail the state exam will be allowed to take the exam again within a six-month period. Individuals who fail the state examination twice must retake the initial course before they will be allowed to retake the state examination. Anyone who fails the test three times within a six-month period may not apply for testing in that category for 90 days.

A.5. - 8.c. …

9. Upon meeting the provisions of this Section, the applicant will be issued an accreditation certificate by the department. The issue date of the accreditation certificate shall become the annual renewal date of accreditation.

B. - B.1.c.i. …

ii. risk assessors: successful completion of a recognized training course and state certification examination for inspectors and risk assessors, and:

B.1.c.ii.(a). - (e). …

iii. lead project supervisor: a high school diploma (or equivalent) and at least two years of experience in lead, asbestos, or environmental remediation work or in the building trades;

B.1.c.iv. - E.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1669 (December 1997), amended LR 24:2240 (December 1998); amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2459 (November 2000), LR 28:

§2809. Licensure of Lead Contractors

A. - A.3.c. …

4. Letters of approval shall be valid through December 31 of issuance year. In order for lead contractors to be granted renewal, they must follow the procedures of this Subsection.

A.5. - B.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054, and 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1671 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2459 (November 2000), LR 28:

§2811. Work Practice Standards for Conducting Lead-Based Paint Activities for Target Housing and Child-Occupied Facilities

A. Applicability and Terms

1. All lead-based paint activities shall be performed in accordance with the work practice standards contained in this Section, except when treating paint-lead hazards of less than 2 square feet of deteriorated lead-based paint per room or equivalent, 20 square feet of deteriorated paint on the

exterior of a building, or 10 percent of the total surface area of deteriorated paint on an interior or exterior type of component with a small surface area.

A.2. ...

3. Hazards related to paint, dust, and soil shall be determined as follows.

a. Lead-based paint is present on any surface that is tested and found to contain lead equal to or in excess of 1.0 milligrams per square centimeter or equal to or in excess of 0.5 percent by weight, and on any surface like a surface tested in the same room equivalent that has a similar painting history and that is found to be lead-based paint.

b. A paint-lead hazard shall be considered present:

i. on any friction surface that is subject to abrasion and where the lead dust levels on the nearest horizontal surface underneath the friction surface (e.g., the window sill or floor) are equal to or greater than the dust hazard levels defined in this Chapter;

ii. on any chewable lead-based paint surface on which there is evidence of teeth marks;

iii. where there is any damaged or otherwise deteriorated lead-based paint on an impact surface that is caused by impact from a related building component (such as a door knob that knocks into a wall or a door that knocks against its door frame); and

iv. if there is any other deteriorated lead-based paint in any residential building or child-occupied facility or on the exterior of any residential building or child-occupied facility.

c. A dust-lead hazard shall be considered present:

i. in a residential dwelling or child-occupied facility when in a residential dwelling on floors and interior window sills where the weighted arithmetic mean lead loading for all single surface or composite samples of floors and interior window sills are equal to or greater than 40 micrograms per square foot for floors and 250 micrograms per square foot for interior window sills, respectively;

ii. on floors or interior window sills in an unsampled residential dwelling in a multi-family dwelling, if a dust-lead hazard is present on floors or interior window sills, respectively, in at least one sampled residential unit on the property; and

iii. on floors or interior window sills in an unsampled common area in a multi-family dwelling, if a dust-lead hazard is present on floors or interior window sills, respectively, in at least one sampled common area in the same common area group on the property.

d. A soil-lead hazard shall be considered present:

i. in a play area when the soil-lead concentration from a composite play area sample of bare soil is equal to or greater than 400 parts per million; or

ii. in the rest of the yard, when the arithmetic mean lead concentration from a composite sample (or arithmetic mean of composite samples) of bare soil from the rest of the yard (i.e., non-play areas) for each residential building on a property is equal to or greater than 1,200 parts per million.

4. Clearance levels that are appropriate for the purposes of this Section are listed as follows:

a. dust wipes from floors/carpets: 40 micrograms per square foot;

b. dust wipes on window sills: 250 micrograms per square foot;

c. dust wipes on window troughs: 400 micrograms per square foot;

d. dust wipes from exterior surfaces: 400 micrograms per square foot;

e. lead-contaminated bare soil and lead-contaminated covered soil in areas expected to be used by children: 400 micrograms per gram; and

f. lead-contaminated covered soil in areas where contact by children is less likely or infrequent: 1200 micrograms per gram.

A.5. - D.4. …

5. In residential dwellings dust samples (either composite or single-surface samples) from the window and floor shall be collected and analyzed for lead concentrations in all living areas where one or more children, age six years and under, are most likely to come into contact with a dust-lead hazard.

D.6. - 6.a. …

b. other common areas in the building where the risk assessor determines that one or more children, age six years and under, are likely to come into contact with a dust-lead hazard.

7. For child-occupied facilities window and floor dust samples (either composite or single-surface samples) shall be collected and analyzed for lead concentrations in each room, hallway, or stairwell utilized by one or more children, age six years and under, and in other common areas in the child-occupied facility where the risk assessor determines one or more children, age six years and under, are likely to come into contact with a dust-lead hazard.

8. Soil samples shall be collected and analyzed for lead concentrations in the following locations:

a. exterior play areas and non-play areas where bare soil is present; and

D.8.b. - E.6.d. …

7. For any exterior abatement of lead-based paint, pre-abatement composite soil samples following documented methodologies that incorporate adequate quality control procedures shall be taken by an accredited inspector or an accredited risk assessor next to the foundation or from the dripline below any exterior surface to be abated, unless this information is available from a current risk assessment. The samples shall be sent for analysis to a recognized laboratory capable of performing these analyses. When analysis results exceed 400 micrograms per gram and bare soil is present, the contractor will furnish a written copy of the analysis results to the owner/operator of the residential dwelling or child-occupied facility prior to abatement.

8. If conducted, soil abatement shall be conducted in one of the following ways:

a. if soil is removed, the lead-contaminated soil shall be replaced with soil that is not lead-contaminated. Any lead-contaminated soil that is removed shall not be used as top soil at another residential property or child-occupied facility; or

b. if soil is not removed, the lead-contaminated soil shall be permanently covered, as defined in LAC 33:III.2803.

E.9. - 9.f. …

g. the accredited inspector or the accredited risk assessor shall compare the residual lead level (as determined by the laboratory analysis) from each dust sample with applicable clearance levels for lead in dust on floors, carpets, and windows. If the residual lead levels in a dust sample are equal to or exceed the clearance levels, all the components represented by the failed sample shall be recleaned and retested until clearance levels are met. Until all applicable clearance levels for lead in dust are met, the area shall not be cleared for reoccupancy.

E.10. - 13. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1672 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2459 (November 2000), repromulgated LR 27:39 (January 2001), amended LR 28:

§2817. Reciprocity

A. Individuals seeking accreditation from the department for a specific discipline, based upon accreditation by EPA or an EPA-approved state or Indian tribal program, shall submit copies of the following documents:

1. a valid lead-based paint activities certification (or equivalent) from EPA or an EPA-approved state or tribal program;

2. a training course certificate, issued by a training provider who, at the time the training certificate was issued, was an EPA or EPA-approved state or tribal program authorized training provider, and all subsequent annual refresher training certificates;

3. certification of a passing score on the applicable accreditation examination, if applicable;

4. an official academic transcript or diploma that meets the educational requirements in LAC 33:III.2807; and

5. a completed application for accreditation in the specific discipline and one 1" x 1 1/4" photograph of the applicant, with the appropriate fees.

B. Exception. An individual who seeks accreditation as a lead project supervisor for the purpose of obtaining a letter of approval (LAC 33:III.2809) must take the Louisiana state examination for that discipline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1676 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:

A public hearing will be held on September 24, 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 AQ228. Such comments must be received no later than October 1, 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 e-mail 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 AQ228.

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; 1823 Highway 546, West Monroe, LA 71292; 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; 111 New Center Drive, 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: Lead-Based Paint Activities

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

There are no implementation costs or savings to state or local government units.

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

There will be minimal effect on state revenue collections due to the accreditation requirements for principal instructors. The number of people impacted by this requirement is less than ten. There is no effect on revenue collections of local governmental units.

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

There will be some economic benefit to persons seeking accreditation by allowing a longer grace period (6 months rather than 30 days) to become accredited (this timeline is in accordance with the federal rule). There could be added costs to lead abatement contractors who must ensure that the abatement clearance levels meet the new federal standards. If a clearance test following abatement does not meet the new standards, the contractor must clean the site until it meets the new standards.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment relative to this rule revision.

James H. Brent	Robert E. Hosse
Assistant Secretary	General Government Section Director
0208#104	Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Board of Examiners of Interior Designers

Comprehensive Rule Revision
(LAC 46:XLIII.Chapters 1-13)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Louisiana Interior Designers Licensing Law (R.S. 37:3171 et seq.), the State Board of Examiners of Interior Designers hereby gives notice of its intent to adopt Practice Act revisions to the Rules of the State Board of Examiners of Interior Designers.

These Rules are promulgated to comply with Act 426 of 1999, which amended the licensing law to provide for a Practice Act for Interior Designers. These proposed Rules provide for enforcement and education for those engaged in the practice of Interior Design. Formerly, the statute provided enforcement only against those who used the term "interior design" or "interior designer." This statute provides that those who actually practice interior design as defined in the statute must be registered with the board prior to engaging in that practice. Further, the statute and the subsequent Rules provide clarification and procedures for continuing education, which is required for all those registered.

The Practice Act and subsequently these Rules complying with that Act were the subject of numerous town hall meetings throughout the state. Numerous designers, educators and students were provided an opportunity to contribute to this statute. Those suggestions were incorporated into the Act. Further, the State Fire Marshal supported these changes, and information was received from architects' and contractors' groups prior to passage of the act. Finally, this Act and subsequent Rules are similar to practice acts passed in other states.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLIII. Interior Designers

Chapter 1. Composition and Operation of the Board

§104. Elections

A. The board shall select annually from among its members a chairman, vice-chairman, and secretary and treasurer. The election of officers will be held each year at the last meeting scheduled before the beginning of the fiscal year on July 1.

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3173.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:339 (April 1985); amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1073 (November 1991); amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 28:

Chapter 3. Officers of the Board and Their Duties

§305. Secretary

A. The secretary shall be an administrative officer of the board. He shall act as its recording and corresponding secretary and may have custody of and shall safeguard and keep in good order all property and records of the board which the chairman deems necessary and appropriate; cause written minutes of every meeting of the board to be kept in a book of minutes; keep its seal and affix it to such instruments as require it; and sign all instruments and matters that require attest and approval of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:339, (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1074 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 28:

§306. Treasurer

A. The treasurer shall act as treasurer and receive and deposit all funds to the credit of the "Interior Design Fund;" attest all itemized vouchers approved by the chairman for payment of expenses of the board; make such reports to the governor and legislature as provided for by law or as requested by same; and keep the records and books of account of the board's financial affairs and any other duties as directed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174.

HISTORICAL NOTE: Promulgated by Office of the Governor, Board of Examiners of Interior Designers, LR 28:

Chapter 5. Fees and Charges

§501. Fees and Charges

A. All fees and charges except for the annual renewal fee must be made be cashier's check or money order. The annual renewal fee may be paid by business or personal check, unless required otherwise by the board. The following fees and charges have been established.

1. Licensing—$150
2. Annual Renewal Fee—$100
3. Restoration of Expired License or Reactivation of Expired License—$150
4. Replacing Lost Certificate—$25
5. Restoration of Revoked or Suspended License—$150
6. Failure to Renew License within the Time Limit Set by the Board—$50

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3182 and R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:339 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1075 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 28:

Chapter 7. Issuance and Reinstatement of Certificates of Registration

§701. Issuance

A. Certificates of registration issued by the board shall run to and include December 31 of the calendar year following their issue. The initial registration fee payable by cashier's check or money order of $150 should be submitted with the application to the board. Certificates must be renewed annually for the following calendar year, by the payment of a fee of $100; provided that any approved applicant who has paid the initial registration fee of the preceding calendar year shall not be required to pay the renewal fee until December 31 of the next succeeding

calendar year. Certificates not renewed by December 31 shall become invalid, except as otherwise provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1075 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 28:

§703. Reinstatement

A. When a certificate has become invalid through failure to renew by December 31, it may be reinstated by the board at any time during the remainder of the following calendar year on payment of the renewal fee, plus a late penalty restoration fee of $150. In case of failure to reinstate within one year from the date of expiration, the certificate cannot be renewed or reissued except by a new application approved by the board and payment of the registration fee.

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1075 (November 1991), LR 20:864 (August 1994), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 28:

§704. Restoration of Expired Certificates

A. A certificate expires on December 31 of each year. If the licensee fails to have the certificate reinstated within one year of the expiration date of the certificate, then the applicant may petition the board to have his certificate restored if he files the said petition within three years of the expiration of the certificate. If the board approves the restoration of the certificate, then the applicant must pay the sum of $150 to the board for the restoration and file a new application with the board.

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1075 (November 1991), amended LR 20:864 (August 1994), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 28:

§705. Lost or Destroyed Certificates

A. Lost or destroyed certificates may be replaced on presentation of a sworn statement giving the circumstances surrounding the loss or destruction thereof, together with a fee of $25. Such replaced certificate shall be marked "duplicate."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1075 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 28:

Chapter 8. Continuing Education

§802. Continuing Education Units

A. …

B. The board will only approve continuing education units which build upon the basic knowledge of Interior Design and which also include topics which concentrate on the subjects of health, safety and welfare of both licensees and their clients and customers.

C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1075 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 28:

§803. Verified Credit

A. - C.1 …

2. the program must build upon the basic knowledge of interior design and must concentrate on or address the subjects of health, safety, and welfare of both licensees and their clients and customers;

C.3. - G. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1076 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 28:

§804. Approved Programs

A. The board by majority vote shall appoint a Continuing Education Advisory Committee which shall solicit, examine, review and recommend for approval by the board all continuing education courses which may be used by registrants and licensees to meet the requirements of this Chapter and Section 3179 of Title 37 of the Louisiana Revised Statutes.

B. The membership of the Continuing Education Advisory Committee shall be composed as follows:

1. at least one member of the board;

2. one member appointed from a list of candidates provided by ASID;

3. one member appointed from a list of candidates provided by IIDA;

4. one correspondence member from each of the eight Louisiana Electoral Districts;

5. one member representing at-large Designers [non-affiliated];

6. any other member approved by the board.

C. The Continuing Education Advisory Committee shall approve only continuing education that builds upon the basic knowledge of interior design and which also concentrates on or addresses the subjects of health, safety, and welfare of both licensees and their clients and customers and shall recommend guidelines for continuing education.

D. Any application for approval of any program must contain the following information:

1. information on the course sponsor, including name, address and telephone number;

2. description of the course, including a detailed description of subject matter and course offering. The

following information is required: Length of instructional period, instruction format, lecture, seminar conference, workshop, or home study; presentation method, such as electronic, visuals, or printed materials. The description should also state how the course relates to public health, safety and welfare;

3. course instructors, leaders and/or participants. Names, addresses and telephone numbers of instructors or leaders or participants in the program must be given. Participants will include any member of any panel, those who make a presentation by electronic means, or any other person who leads or contributes to the course content. Information on these should include education and professional credentials for each person. Professional references will be requested;

4. time, place and cost. The information must include the date, time and location of course offerings, as well as attendance fees and cost of course materials;

5. verification of course completion. The information must include the sponsor's method for verifying attendance, participation and achievement of program learning objectives;

6. course information dissemination. The information must include the method of informing those interested of program offering.

E. Application Fees

1. All applicants for approval of a program for continuing education credit by the board must pay the following costs, which represent the direct cost to the board for committee review and expenses.

a. Programs already approved by professional organizations including ASID, IIDA, IDEC, IFMA, BOMA, NFPA, SBC AIA and the IDCEC**C** $10

b. Individual presentations on a one-time annual basis **C** $25

c. National Commercial Seminars presented by for profit organizations **C** $50

2. Review fees are payable to the board and are non-refundable.

3. The board may waive fees for programs solicited by the board.

F. Committee Meetings

a. The CEU Advisory Committee may meet by telephone conference calls or by other electronic means.

b. Corresponding members will receive information regarding applications for CEU approval by facsimile and may respond via facsimile.

c. All matters considered by the CEU Advisory Committee are subject to final approval by the board at its regularly scheduled meetings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1076 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 28:

Chapter 9. Examination and Registration

§902. Licensing without Examination

A.1. All persons registered to use the title "interior designer," "registered interior designer" or "licensed interior designer" on January 1, 2000, shall be qualified for interior design registration under the provisions of this Chapter, provided that their license was not inactive, expired, suspended or revoked.

2. Any person licensed on January 1, 2000, who has not passed the required examination by January 1, 2003, must show completion of one of the following:

a. passage of the building and barrier free code section of the NCIDQ examination; or

b. 15 hours of board-approved continuing education classes relating to building and barrier free code regulation prior to having the certificate of registration issued under this Subsection renewed. Any hour earned for continuing education pursuant to this Section shall be in addition to any other continuing education required by this Part.

3. However, any person who has within the three years prior to January 1, 2000, completed 15 hours of approved continuing education on building and barrier free code regulation shall not be required to complete the 15 hours of continuing education related to building and barrier free code regulation as provided for herein.

4. Prior to January 1, 2003, or until he completes the requirements of this Section, the interior designer may retain the title "licensed interior designer" and retain all rights and duties granted to registered interior designers pursuant to this act, conditioned upon the licensed interior designer abiding by all requirements of this part.

B. On January 1, 2000, all persons who are 65 years old and who are authorized to use the term "licensed interior designer" on the effective date of the act shall not be required to establish proof of passage of the required examination. However, such persons shall comply with all other requirements of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with RS. 37:3174 and 37:3178.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners of Interior Designers, LR 28:

§903. Application Procedure

A. Application must be made to the board on application forms obtained from the State Board of Examiners of Interior Designers and required fees filed. Application forms may be obtained by calling (225) 298-1283 or writing to State Board of Examiners of Interior Designers, 2900 Westfork Drive, Suite 200, Baton Rouge, LA 70827.

B. The application must request the following information:

1. name;
2. business address and telephone;
3. residential address and telephone;
4. affiliations, if any;
5. educational background;
6. employment background;
7. specialities, if recognized;
8. e-mail address;
9. volunteer status for board committees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1077 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 28:

§909. Seal and Display of License Number

A. An applicant for licensing who complies with all requirements established therefor, including the successful completion of an examination where applicable, shall be issued a certificate by the board to evidence such licensing. Each holder of a license shall secure a seal of such design as is prescribed in the rules of the board. All drawings, renderings, or specifications prepared by the holder or under his supervision shall be imprinted with his seal.

B. The seal to be used is identified in the following illustration:

AUTHORITY NOTE: Promulgated in accordance with R.S. 3179.2.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1077 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 28:

§911. Inactive Status

A. …

B. An applicant who wishes to have his license reactivated must provide proof to the Board that he has completed board-approved continuing education units of not less than five hours approved by the board for each year the license was inactive, to be cumulated at the time the applicant applies to have his license reactivated.

C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1077 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 28:

Chapter 10. Use of Term "Interior Designer"

§1001. Limitation of Use of Term

A. Only those who are licensed as a "licensed interior designer" or "registered interior designer" by the board may use the appellation "interior designer", "licensed interior designer" or "registered interior designer" or the plural thereof in advertising or in business usage when referring to themselves or services to be rendered.

B. Definitions

Licensed Interior Designer—a person who is licensed pursuant to the provisions of this chapter.

Registered Interior Designer—a licensed interior designer who has taken and passed the examination provided by the National Council for Interior Design Qualifications (NCIDQ).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3171 and R.S. 37:3176.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1078 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 28:

§1003. Firm Practice

A. Nothing shall prevent a licensed or registered interior designer licensed pursuant to the statute or regulations from associating with one or more interior designers, architects, professional engineers, landscape architects, surveyors, or other persons in a partnership, joint venture, or corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3180.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1078 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 28:

§1005. Use of Term by Business

A. A firm shall be permitted to use in its title the term licensed interior designer or registered interior designer and to be so identified on any sign, card, stationery, device, or other means of identification if at least one partner, director, officer, or other supervisory agent of such firm is licensed as an interior designer in this state. A firm shall not be required to include the names of all partners, directors, or officers in its title.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3180.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1078 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 28:

Chapter 11. Revocation or Suspension of Certificates of Registration

§1101. Authority of Board to Suspend or Revoke

A. - A.2. …

3. that an applicant for a license has represented himself to be a "licensed interior designer" or a "registered interior designer" prior to the time of issuance of a license to him except as authorized by the Act;

4. - 6. …

7. that the holder of the license has been guilty of affixing his seal or stamp or name to any specification, drawing, or other related document which was not prepared by him or under his responsible supervision and control, or permitting his seal, stamp, or name to be affixed to any such document;

8. that the holder of a license has been guilty of affixing his seal or stamp or name to any plan, specification, drawing or other document which depicts work which he is not competent or licensed to perform;

9. that the holder of the license has been convicted of a felony, in which case the record of conviction is conclusive evidence of such conviction;

10. that the holder of the license has been guilty of willfully misleading or defrauding any person employing him as an interior designer;

11. that the holder of the license has been guilty of willfully violating the provisions of the Act or any lawful rule or regulation adopted by the board pursuant to law;

12. that the holder of the license has been guilty of attempting to obtain, obtaining, or renewing, by bribery, by

fraudulent misrepresentation, or through an error of the board, a license to use the title "licensed interior designer";

13. that the holder of the license has been guilty of having a license to practice interior design, or a license to use the title "licensed interior designer" or "registered interior designer," revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another jurisdiction for any act which would constitute a violation of this part of this Chapter;

14. that the holder of the license has been convicted or found guilty of a crime in any jurisdiction which directly relates to the provision of interior design services or to the ability to provide interior design services. A plea of nolo contendere shall create a rebuttable presumption of guilt to the underlying criminal charge. However, the board shall allow the person being disciplined to present any evidence relevant to the underlying charge and the circumstances surrounding such plea;

15. that the holder of the license has been guilty of false, deceptive, or misleading advertising;

16. that the holder of the license has been guilty of aiding, assisting, procuring, or advising any unlicensed person to use the title "licensed interior designer" or "registered interior designer" contrary to this Act or to a rule of the board;

17. that the holder of the license has been guilty of failing to perform any statutory or legal obligation placed upon an interior designer;

18.a. that the holder of the license has been guilty of:

i. making or filing a report which the licensee knows to be false;

ii. intentionally or negligently failing to file a report or record required by state or federal law; or

iii. willfully impeding or obstructing such filing or inducing another person to do so;

b. such reports or records shall include only those which are signed in the capacity as an interior designer.

19. that the holder of the license has been guilty of making deceptive, untrue, or fraudulent representations in the provision of interior design services;

20. that the holder of the license has been guilty of accepting and performing professional responsibilities which the licensee knows or has reason to know that he is not competent or licensed to perform;

21. that the holder of the license has been guilty of rendering or offering to render architectural services.

B. Revocation or nonrenewal of the registration of the registered interior designer is recommended for violations of Paragraphs 1, 2, 6, 9, 10, 11, 12, and 13.

C. Revocation or nonrenewal of the registration of the registered interior designer is recommended if there is a finding that the registrant has been suspended at least twice prior to the hearing on the incident regarding the current complaint.

D. Revocation or nonrenewal of the registration of the registered interior designer is recommended if there is a finding that the registrant has violated any requirements relating to continuing education units.

E. A reprimand or suspension of 30 days to one year is recommended for violation of any Sections 3, 4, 5, 7, 14, 15, 16, 17, 18, 19, 20.

F. Suspension is recommended if the registrant has received three reprimands.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179 and R.S. 37:3181.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1078 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 28:

§1103. Procedure for Suspension or Revocation

A. …

B. If a formal complaint is filed with the board, that complaint shall be referred to the Disciplinary Committee, whose job shall be to investigate the complaint. If warranted by the investigation, the Disciplinary Committee shall duly notify the alleged violator in writing of the complaint and ask the alleged violator for a response to the complaint.

C. If the Disciplinary Committee by a majority vote determines that there has been no violation of the statutes and regulations regulating registered or licensed interior designers, then a report of that shall be made to the Board.

D. If the Disciplinary Committee determines that the registrant has corrected the alleged violation, and the complainant has accepted the correction without further hearing, it shall make a report of that to the entire Board.

E. If the Disciplinary Committee determines that there is a violation alleged, and that the registrant has not corrected the alleged violation, then it shall make a referral to the Board of this fact and ask that the matter be referred for a hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174, R.S. 37:3179 and R.S. 37:3181.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1079 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 28:

§1104. Hearings

A. If, after following the procedure in §1103, the board determine that a hearing is warranted, the following procedure should be followed.

B. Proceedings to revoke, rescind or suspend the certificate of registration of an interior designer shall commence by any person filing a sworn affidavit with the board against the interior designer. A time and place for the hearing of the charges shall be fixed by the board. The board, upon its own motion, may investigate the actions of any interior designer and file a complaint against him.

C. A copy of the complaint shall be sent by the board to the interior designer against whom a complaint has been filed at his last known address by registered or certified mail at least 20 days prior to the hearing together with a notice of the time and place of the meeting of the board at which the complaint shall be heard.

D. At the hearing the interior designer against whom a complaint has been filed shall have the right to cross-examine witnesses against him, to produce witnesses in his defense, and to appear personally or by counsel.

E. No action shall be taken to rescind, revoke, or suspend the certificate of registration of any interior designer unless a quorum of the board is present at the

hearing and then only by an affirmative vote of at least four of the members of the board present.

F. If the board determines upon the suspension of the certificate of registration of any interior designer, it shall fix the duration of the period of the suspension.

G. If the board revokes, rescinds, or suspends the certificate of registration of any interior designer, the secretary of the board shall give written notice of its action by registered or certified mail to the person against whom the complaint was filed at the last known address.

H. The board may require the production of books, papers, or other documents and may issue subpoenas to compel the attendance of witnesses to testify and to produce any relevant books, papers, or other documents in their possession before the board in any proceeding concerning any violations of the laws regulating registered interior designers or the practice of interior design. The subpoenas shall be served by the sheriff for the parish where the witness resides or may be found. If any person refuses to obey any subpoena so issued or refuses to testify or to produce any books, papers, or other documents required to be produced, the board may present its petition to the district court of the parish in which that person was served with the subpoena setting forth the facts. The court shall then issue a rule to that person requiring him to obey the subpoena or to show cause why he fails to obey it. Unless that person shall show sufficient cause for failing to obey the subpoena, the court shall direct him to obey the subpoena and, upon his refusal to comply, he shall be adjudged in contempt of court and punished therefor, as the court may direct.

I. Any licensed or registered interior designer who has been found guilty by the board of the charges filed against him and whose certificate of registration has been revoked, rescinded, or suspended, shall have the right to appeal to the district court of the parish in which the hearing was held. The appeal shall be governed by the Administrative Procedure Act, R.S. 49:950, et seq.

J. The board shall have the power to issue a new certificate of registration, change a revocation to a suspension, or shorten the period of suspension, upon satisfactory evidence that proper reasons for such action exist, presented by any person whose certificate of registration as an interior designer has been revoked, rescinded or suspended. Any person whose certificate of registration has been suspended shall have his certificate of registration automatically reinstated by the board at the end of his period of suspension upon payment of the renewal fee. No delinquent fee shall be charged for reinstatement of certificate of registration under the provisions of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:3174, R.S. 37:3179 and R. S. 37:3181.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1079 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 28:

§1106. Fine for Restoration of Revoked or Suspended License

A. The board may require a licensee who has had his license revoked or suspended pursuant to the provisions of this Chapter to pay a fine of up to $150 to have his license restored to him.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179 and R.S. 37:3182.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1079 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 28:

§1108. Disciplinary Committee

A. There is hereby created a disciplinary committee to review all complaints filed with the board.

B. The Board shall appoint the members of the disciplinary committee.

C. The disciplinary committee shall be composed of the following members:

1. the chairman of the board or a representative of same;
2. one representative of ASID;
3. one representative of IIDA;
4. one representative of IDEC;
5. one unaffiliated registered interior designer.

D. All complaints filed with the Board shall be reviewed by the Disciplinary Committee before submission to the board.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:3179.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners of Interior Designers, LR 28:

§1109. Cease and Desist Orders and Injunctive Relief

A. In addition to or in lieu of the administrative sanctions provided in this Chapter the board is empowered to issue an order to any person or firm engaged in any activity, conduct, or practice constituting a violation of any provision of this chapter directing such person or firm to cease and desist from such activity, conduct, or practice. Such order shall be issued in the name of the state of Louisiana under the official seal of the board.

B. The board shall issue a cease and desist order against anyone who is not registered and who is found to be practicing interior design or using the term "interior designer," "registered interior designer," or "licensed interior designer."

C. The alleged violator shall be served with the cease and desist order by certified mail. If within 10 days the alleged violator is continuing the offending activity, the board may file a complaint with the appropriate district court requesting that the court enjoin the offending activity.

D. Upon a proper showing by the board that such person or firm has engaged in any activity, conduct, or other activity proscribed by this Chapter, the court shall issue a temporary restraining order restraining the person or firm from engaging in unlawful activity, conduct, or practices pending the hearing on a preliminary injunction, and in due course a permanent injunction shall issue after hearing commanding the cessation of the unlawful activity, conduct, or practices complained of, all without the necessity of the board having to give bond as usually required in such cases. A temporary restraining order, preliminary injunction, or permanent injunction issued hereunder shall not be subject to being released upon bond.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3185.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners of Interior Designers, LR 28:

Family Impact Statement

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

All interested persons may submit data, views or positions in writing to the State Board of Examiners of Interior Designers by writing to Mary Norton, 2900 Westfork Drive, Suite 200, Baton Rouge, Louisiana 70827 or to Mary Norton at lidboard@intersurf.com. All comments must be received by September 30, 2002.

Anna E. Dow
Attorney

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Comprehensive Rule Revision

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

There should be no implementation costs or savings to the State Board of Interior Designers (board) as a result of the Rule change brought about by Act 426 of 1999.

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

There is no estimated effect on revenue collections as a result of the Rule change.

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

There is a minimal cost for those licensees who have not taken the nationally approved examination to gain licensure, referred to as the NCIDQ examination. Those licensees who were licensed in 1984 under a special grandfathering clause of the original Act will have to take an extra 15 hours of continuing education in building codes and life safety codes or they will have to take an examination to retain their licenses. There will be a cost for taking the continuing education or the examination.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The regulations follow the provisions of Act 426 of 1999, which revised the original licensing statute to require licensing for all who practice interior design. Formerly, the statute restricted only the use of the title of interior designer. Others who do apply and who do qualify will become licensed.

Anna E. Dow	H. Gordon Monk
Attorney	Staff Director
0208#069	Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Division of Administration
Office of Group Benefits

EPO Plan of Benefits
(LAC 32:V.101, 317, 325, 501, 503, and 701)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2) vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the EPO Plan Document. The reason for this action is to avoid disruption of healthcare services for covered employees, retirees, and their dependents, adversely affecting the health and welfare of the public workforce responsible for delivery of vital services to the citizens of the state.

Accordingly, OGB hereby give Notice of Intent to adopt the following Rule.

Title 32
EMPLOYEE BENEFITS
Part V. Exclusive Provider (EPO) Plan of Benefits

Chapter 1. Eligibility

§101. Persons to be Covered

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

A. - H. …

I. Tricare for Life Option for Military Retirees. Retirees eligible to participate in the Tricare for Life (TFL) option on and after October 1, 2001 who cancel coverage with the Program upon enrollment in TFL may re-enroll in the Program in the event that the TFL option is discontinued or its benefits significantly reduced.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1804 (October 1999), amended by the Office of the Governor, Division of Administration, Board of Trustees of the State Employees Group Benefits Plan, LR 27:718 (May 2001), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:

Chapter 3. Medical Benefits

§317. Exceptions and Exclusions for All Medical Benefits

A. No benefits are provided under this *plan* for:

1. - 3. …

4. injuries sustained while in an aggressor role;

5. - 39. …

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustee of the State Employees Group Benefits Program, LR 25:1813 (October 1999), amended by the Office of the Governor, Division of Administration, Board of Trustees of the State Employees Group Benefits Program, LR 26:487 (March 2000), LR 27:717 (May 2001), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28

§325. Prescription Drug Benefits

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

In addition, this *plan* allows benefits, not to exceed $200 per month, for expenses incurred for the purchase of low protein food products for the treatment of inherited metabolic diseases if the low protein food products are medically necessary and are obtained from a source approved by the OGB. Such expenses shall be subject to coinsurance and copayments relating to prescription drug benefits. In connection with this benefit, the following words shall have the following meanings.

1. *Inherited Metabolic Disease*—a disease caused by an inherited abnormality of body chemistry and shall be limited to:

a. Phenyyketonuria (PKU);
b. Maple Syrup Urine Disease (MSUD);
c. Methylmalonic Acidemia (MMA);
d. Isovaleric Acidemia (IVA);
e. Propionic Acidemia;
f. Glutaric Acidemia;
g. Urea Cycle Defects;
h. Tyrosinemia.

2. *Low Protein Food Products*—a food product that is especially formulated to have less than one gram of protein per serving and is intended to be used under the direction of a physician for the dietary treatment of an inherited metabolic disease. Low protein food products shall not include a natural food that is naturally low in protein.

C. - C.5. …

a. Up to a 34-day supply of drugs may be dispensed upon initial presentation of a prescription or for refills dispensed more than 120 days after the most recent fill;

b. For refills dispensed within 120 days of the most recent fill, up to a 102-day supply of drugs may be dispensed at one time, provided that co-payments shall be due and payable as follows.

i. For a supply of 1-34 days the *plan member* will be responsible for payment of 50 percent of the cost of the drug, up to a maximum of $40 per prescription dispensed.

ii. For a supply of 35-64 days the *plan member* will be responsible for payment of 50 percent of the cost of the drug, up to a maximum of $80 per prescription dispensed.

iii. For a supply of 69-102 days the *plan member* will be responsible for payment of 50 percent of the cost of the drug, up to a maximum of $120 per prescription dispensed.

iv. Once the out-of-pocket threshold for eligible prescription drug expenses is reached, the *plan member's* co-payment responsibility will be $15 for a 1-34 days supply, $30 for a 35-64 days supply, and $45 for a 69-102 days supply, with no co-pay for up to a 102-days supply of generic drugs.

c. …

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1815 (October 1999), amended by the Office of the Governor, Division of Administration, Board of Trustees of the State Employees Group Benefits Program, LR 27:717, 718 (May 2001), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 27:1886 (November 2001), LR 28:

Chapter 5. Claims Review and Appeal

§501. Administrative Review

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

A. Administrative Claims Review

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

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

B. Review and Appeal Prerequisite to Legal Action

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

C. Administrative Claims Committee

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

D. Administrative Claims Review Procedure and Decisions

1. Review by the *committee* shall be based upon a documentary record which includes:

a. all information in the possession of the *program* relevant to the issue presented for review;

b. all information submitted by the *covered person* in connection with the request for review; and

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

2. Upon completion of the review the *committee* will render its decision which will be based on the *plan* Document and the information included in the record. The decision will contain a statement of reasons for the decision. A copy of the decision will be mailed to the *covered person* and any representative thereof.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1818 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:477 (March 2002), LR 28:

§503. Appeals from Medical Necessity Determinations

The following provisions will govern appeals from adverse determinations based upon medical necessity by OGB's Utilization Review Organization (URO) pursuant to Article 3, Section IV of this document.

A. First level appeal. Within 60 days following the date of an adverse initial determination based upon medical necessity, the *covered person*, or the provider acting on behalf of the *covered person*, may request a first level appeal.

1. Each such appeal will be reviewed within the URO by a health care professional who has appropriate expertise.

2. The URO will provide written notice of its decision.

B. Second level review. Within 30-days following the date of the notice of an adverse decision on a first level appeal, a covered person may request a second level review.

1. Each such second level review will be considered by a panel within the URO that includes health care professionals who have appropriate expertise and will be evaluated by a clinical peer or peers in the same or similar specialty as would typically manage the case being reviewed.

a. The review panel will schedule and hold a review meeting, and written notice of the time and place of the review meeting will be given to the covered person at least fifteen working days in advance.

b. The covered person may:

i. present his/her case to the review panel;

ii. submit supporting material and provide testimony in person or in writing or affidavit both before and at the review meeting; and

iii. ask questions of any representative of the URO.

c. If face-to-face meeting is not practical the covered person and provider may communicate with the review panel by conference call or other appropriate technology.

2. The URO will provide written notice of its decision on the second level review.

C. External Review. Within 60 days after receipt of notice of a second level appeal adverse determination, the covered person whose medical care was the subject of such determination, with the concurrence of the treating health care provider, may submit request for an external review to the URO.

1. The URO will provide the documents and any information used in making the second level appeal adverse determination to its designated independent review organization.

2. The independent review organization will review all information and documents received and any other information submitted in writing by the covered person or the covered person's health care provider.

3. The independent review organization will provide notice of its recommendation to the URO, the covered person, and the covered person's health care provider.

4. An external review decision will be binding on the URO, on OGB and on the covered regarding the medical necessity determination.

D. Expedited Appeals

1. An expedited appeal may be initiated by the covered person, with the consent of the treating health care professional, or the provider acting on behalf of the covered person, with regard to:

a. an adverse determination involving a situation where the time frame of the standard appeal would seriously jeopardize the life or health of a covered person or would jeopardize the covered person's ability to regain maximum function; or

b. any request concerning an admission, availability of care, continued stay, or health care service for a covered person who has received emergency services but has not been discharged from a facility.

2. In an expedited appeal the URO will make a decision and notify the covered person, or the provider acting on behalf of the covered person, as expeditiously as the covered person's medical condition requires, but in no event more than seventy-two hours after the appeal is commenced.

3. The URO will provide written confirmation of its decision concerning an expedited appeal if the initial notification is not in writing.

4. In any case where the expedited appeal does not resolve a difference of opinion between the URO and the covered person, or the provider acting on behalf of the covered person, such provider may request a second level review of the adverse determination.

D. Expedited External Review of Urgent Care Requests

1. When the covered person receives an adverse determination involving an emergency medical condition of the covered person being treated in the emergency room, during hospital observation, or as a hospital inpatient, the covered person's health care provider may request an expedited external review.

2. The URO will transmit all documents and information used in making the adverse determination to the independent review organization by telephone, telefacsimile, or other available expeditious method.

3. Within 72 hours after receiving appropriate medical information for an expedited external review, the independent review organization will notify the covered person, the URO, and the covered person's health care provider of its decision to uphold or reverse the adverse determination.

4. An external review decision will be binding on the URO, on OGB and on the covered regarding the medical necessity determination.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1818 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:477 (March 2002), LR 28:

Chapter 7. Schedule of Benefits C EPO

§701. Comprehensive Medical Benefits

A. - A.1. …

2. Member Co-Payments

Inpatient Hospital Services	N/A	$100 per day up to $300
Outpatient Services		
Physician services	N/A	$ 15/$25[1]
Physical /Occupational Therapy[2]	N/A	$ 15
Speech Therapy[3]	N/A	$ 15
Surgery [3]	N/A	$ 100
MRI/CAT SCAN [3]	N/A	$ 50
Sonograms	N/A	$ 25
Cardiac Rehabilitation (6-month limit)	N/A	$ 15
Emergency Room Services (waived if admitted)	N/A	$100

[1-3] …

Pre-Natal And Postpartum Maternity (one-time co-payment to include Physician delivery charge, all pre-natal, one postpartum visit)	N/A	$ 90
Home Health (Limit 150 visits per Plan year; requires prior approval through Case Management)	N/A	$ 15 per visit

• Note: Services rendered by non-EPO providers are subject to deductible.		

3. Percentage Payable after Co-payments and Satisfaction of Applicable Deductibles

Eligible expenses incurred at an EPO	N/A	100%
Eligible expenses incurred at a non-EPO	70%	N/A
Eligible expenses incurred when Medicare or other Group Health Plan is primary, and after Medicare reduction	80%	N/A
Eligible expenses in excess of $5,000* per person per Calendar Year	100%	N/A
*Coinsurance threshold will increase to $10,000 effective January 1, 2003		
• Eligible expenses at EPO are based upon contracted rates.		
• Eligible expenses at non-PPO are based upon the OGB's fee schedule. Charges in excess of the fee schedule are not eligible expenses and do not apply to the coinsurance threshold.		

A.4. - C.2. ...

3. Well Adult (no deductible; limited to a maximum benefit of $200)

Age 16 to 39 C 1 physical every 3 years	70% of maximum	No co-pay
Age 40 to 49 C 1 physical every 2 years	70% of maximum	No co-pay
Age 50 and over C 1 physical every year	70% of maximum	No co-pay

D. - E. …

F. - G. Reserved

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1843 (October 1999), amended by Office of the Governor, Division of Administration, Board of Trustees of the State Employees Group Benefits Program, LR 26:488 (March 2000), LR 27:719,720, 722 (May 2001), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 27:1887 (November 2001), LR 28:

Family Impact Statement

The proposed Rules have no known impact on family formation, stability, or autonomy.

Interested persons may present their views, in writing, to A. Kip Wall, Chief Executive Officer, Office of Group Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Thursday, September 26, 2002.

A. Kip Wall
Chief Executive Officer

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: EPO Plan of Benefits

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

It is estimated by OGB's consulting actuary, Milliman, USA, that these benefit modifications will reduce the State's expenses by $1,302,000 for Fiscal Year 2002/2003, $1,500,000 in Fiscal Year 2003/2004, and $1,722,000 in Fiscal Year 2004/2005. Costs are projected to increase by 15 percent annually for FY 03/04 and 04/05. It is anticipated that $3000 in printing costs will be incurred with the publishing of this rule.

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

Revenue collections of state and local governmental units will not be affected. These rule changes are being published to simplify the administrative procedures of the Program and to bring the Plan of Benefits in conformance with statute.

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

This rule change will impact those EPO members that utilize the benefits that are being changed. There are six major changes that will result from this rule change as outlined on the schedule prepared by the Program's consulting actuary, Milliman, USA. These changes are: 1) Permit retirees who enroll in Tricare for Life to reenroll in OGB; 2) Eliminate exclusion for self inflicted injury; 3) Implement a $200/month maximum for protein food products; 4) Maintain the extended therapy benefit; 5) Delineate the appeals process in accordance with the MNRO act; and 6) Modify the Schedule of Benefits and provide a more equitable distribution of payments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary

Competition and employment will not be affected.

A. Kip Wall
Chief Executive Officer
0208#100

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Division of Administration
Office of Group Benefits

PPO Plan of Benefits
(LAC 32:III.101, 317, 323, 501, 503, and 701)

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801.C and 802.B(2) vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO Plan Document. The reason for this action is to avoid disruption of healthcare services for covered employees, retirees, and their dependents, adversely affecting the health and welfare of the public workforce responsible for delivery of vital services to the citizens of the state.

Accordingly, OGB hereby gives Notice of Intent to adopt the following Rule.

Title 32
EMPLOYEE BENEFITS
Part III. Preferred Provider (PPO) Plan of Benefits
Chapter 1. Eligibility
§101. Persons to be Covered

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

A. - H. …

I. Tricare for Life Option for Military Retirees. Retirees eligible to participate in the Tricare for Life (TFL) option on and after October 1, 2001 who cancel coverage with the Program upon enrollment in TFL may re-enroll in the Program in the event that the TFL option is discontinued or its benefits significantly reduced.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits LR 25:1825 (October 1999), LR 27:721 (May 2001), LR 28:

Chapter 3. Medical Benefits

§317. Exceptions and Exclusions for All Medical Benefits

A. No benefits are provided under this plan for:

1. - 3. …

4. injuries sustained while in an aggressor role;

5. - 39. …

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits LR 25:1834 (October 1999), LR 26:488 (March 2000), LR 27:720 (May 2001), LR 28:

§323. Prescription Drug Benefits

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

In addition, this plan allows benefits, not to exceed $200 per month, for expenses incurred for the purchase of low protein food products for the treatment of inherited metabolic diseases if the low protein food products are medically necessary and are obtained from a source approved by the OGB. Such expenses shall be subject to coinsurance and copayments relating to prescription drug benefits. In connection with this benefit, the following words shall have the following meanings.

1. *Inherited Metabolic Disease*—a disease caused by an inherited abnormality of body chemistry and shall be limited to:

a. Phenyyketonuria (PKU);

b. Maple Syrup Urine Disease (MSUD);

c. Methylmalonic Acidemia (MMA);

d. Isovaleric Acidemia (IVA);

e. Propionic Acidemia;

f. Glutaric Acidemia;

g. Urea Cycle Defects;

h. Tyrosinemia.

2. *Low Protein Food Products*—a food product that is especially formulated to have less than one gram of protein per serving and is intended to be used under the direction of a physician for the dietary treatment of an inherited metabolic disease. Low protein food products shall not include a natural food that is naturally low in protein.

C. - C.5. …

a. Up to a 34-day supply of drugs may be dispensed upon initial presentation of a prescription or for refills dispensed more than 120 days after the most recent fill.

b. For refills dispensed within 120 days of the most recent fill, up to a 102-day supply of drugs may be dispensed at one time, provided that co-payments shall be due and payable as follows.

i. For a supply of 1-34 days the *plan member* will be responsible for payment of 50 percent of the cost of the drug, up to a maximum of $40 per prescription dispensed.

ii. For a supply of 35-64 days the *plan member* will be responsible for payment of fifty percent of the cost of the drug, up to a maximum of $80 per prescription dispensed.

iii. For a supply of 69-102 days the Plan Member will be responsible for payment of 50 percent of the cost of the drug, up to a maximum of $120 per prescription dispensed.

iv. Once the out-of-pocket threshold for eligible prescription drug expenses is reached, the *plan member's* co-payment responsibility will be $15 for a 1-34 days supply, $30 for a 35-64 days supply, and $45 for a 69-102 days supply, with no co-pay for up to a 102-days supply of generic drugs.

c. …

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1835 (October 1999), LR 27:720, 721 (May 2001), LR 27:720, 721 (May 2001), LR 27:1887 (November 2001), LR 28:

Chapter 5. Claims Review and Appeal

§ 501. Administrative Review

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

A. Administrative Claims Review

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

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

B. Review and Appeal Prerequisite to Legal Action

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

C. Administrative Claims Committee

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

D. Administrative Claims Review Procedure and Decisions

1. Review by the *committee* shall be based upon a documentary record which includes:

a. all information in the possession of the *program* relevant to the issue presented for review;

b. all information submitted by the *covered person* in connection with the request for review; and

c. any and all other information obtained by the *committee* in the course of its review.

2. Upon completion of the review the *committee* will render its decision which will be based on the *plan document* and the information included in the record. The decision will contain a statement of reasons for the decision. A copy of the decision will be mailed to the *covered person* and any representative thereof.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1838 (October 1999), LR 28:479 (March 2002), LR 28:

§ 503. Appeals from Medical Necessity Determinations

The following provisions will govern appeals from adverse determinations based upon medical necessity by OGB's Utilization Review Organization (URO) pursuant to Article 3, Section IV of this document.

A. First Level Appeal. Within 60 days following the date of an adverse initial determination based upon medical necessity, the covered person, or the provider acting on behalf of the covered person, may request a first level appeal.

1. Each such appeal will be reviewed within the URO by a health care professional who has appropriate expertise.

2. The URO will provide written notice of its decision.

B. Second Level Review. Within 30 days following the date of the notice of an adverse decision on a first level appeal, a covered person may request a second level review.

1. Each such second level review will be considered by a panel within the URO that includes health care professionals who have appropriate expertise and will be evaluated by a clinical peer or peers in the same or similar specialty as would typically manage the case being reviewed.

a. The review panel will schedule and hold a review meeting, and written notice of the time and place of the review meeting will be given to the *covered person* at least 15 working days in advance.

b. The *covered person* may:

i. present his/her case to the review panel;

ii. submit supporting material and provide testimony in person or in writing or affidavit both before and at the review meeting; and

iii. ask questions of any representative of the URO.

c. If face-to-face meeting is not practical the covered person and provider may communicate with the review panel by conference call or other appropriate technology.

2. The URO will provide written notice of its decision on the second level review.

C. External Review. Within 60 days after receipt of notice of a second level appeal adverse determination, the covered person whose medical care was the subject of such determination, with the concurrence of the treating health care provider, may submit request for an external review to the URO.

1. The URO will provide the documents and any information used in making the second level appeal adverse determination to its designated independent review organization.

2. The independent review organization will review all information and documents received and any other information submitted in writing by the covered person or the covered person's health care provider.

3. The independent review organization will provide notice of its recommendation to the URO, the covered person, and the covered person's health care provider.

4. An external review decision will be binding on the URO, on OGB and on the covered regarding the medical necessity determination.

D. Expedited Appeals

1. An expedited appeal may be initiated by the covered person, with the consent of the treating health care professional, or the provider acting on behalf of the covered person, with regard to:

a. an adverse determination involving a situation where the time frame of the standard appeal would seriously jeopardize the life or health of a covered person or would jeopardize the covered person's ability to regain maximum function; or

b. any request concerning an admission, availability of care, continued stay, or health care service for a covered person who has received emergency services but has not been discharged from a facility.

2. In an expedited appeal the URO will make a decision and notify the *covered person*, or the provider acting on behalf of the covered person, as expeditiously as the covered person's medical condition requires, but in no event more than 72 hours after the appeal is commenced.

3. The URO will provide written confirmation of its decision concerning an expedited appeal if the initial notification is not in writing.

4. In any case where the expedited appeal does not resolve a difference of opinion between the URO and the covered person, or the provider acting on behalf of the covered person, such provider may request a second level review of the adverse determination.

D. Expedited External Review of Urgent Care Requests

1. When the *covered person* receives an adverse determination involving an emergency medical condition of the covered person being treated in the emergency room, during hospital observation, or as a hospital inpatient, the covered person's health care provider may request an expedited external review.

2. The URO will transmit all documents and information used in making the adverse determination to the independent review organization by telephone, telefacsimile, or other available expeditious method.

3. Within 72 hours after receiving appropriate medical information for an expedited external review, the independent review organization will notify the covered person, the URO, and the covered person's health care provider of its decision to uphold or reverse the adverse determination.

4. An external review decision will be binding on the URO, on OGB and on the covered regarding the medical necessity determination.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits LR 25:1838 (October 1999), LR 28:479 (March 2002), LR 28:

Chapter 7. Schedule of Benefits C PPO

§701. Comprehensive Medical Benefits

A. - A.1. …

2. Percentage Payable after Satisfaction of Applicable Deductibles

Eligible expenses incurred at a PPO	90%
Eligible expenses incurred at a non PPO when Plan Member resides outside of Louisiana	90%
Eligible expenses incurred at a non-PPO when Plan Member resides in Louisiana	70%
Eligible expenses incurred when Medicare or other group health plan is primary, and after Medicare reduction	80%
Eligible expenses in excess of $10,000 per Calendar Year per person	100%
• Eligible expenses at PPO are based upon contracted rates. PPO discounts are not eligible expenses and do not apply to the $10,000 threshold.	
• Eligible expenses at non-PPO are based upon the OGB's fee schedule. Charges in excess of the fee schedule are not eligible expenses and do not apply to the $10,000 threshold.	

3. Reserved

4. …

B. - C.3. …

[2]PPO in-state and non-Louisiana residents C 100 percent of eligible expenses up to the maximum benefit;
Non-PPO in-state C 70 percent of eligible expenses up to 70 percent of the maximum benefit

D. …

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1843 (October 1999), LR 26:488 (March 2000), LR 27:719,720, 722 (May 2001), LR 27:1887 (November 2001), LR 28:

Family Impact Statement

The proposed Rules have no known impact on family formation, stability, or autonomy.

Interested persons may present their views, in writing, to A. Kip Wall, Chief Executive Officer, Office of Group Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Thursday, September 26, 2002.

A. Kip Wall
Chief Executive Officer

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: PPO Plan of Benefits

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

It is estimated by OGB's consulting actuary, Milliman, USA, that these benefit modifications will reduce the State's expenses by $3,208,000 for Fiscal Year 2002/2003, $3,700,000 in Fiscal Year 2003/2004, and $4,242,580 in Fiscal Year 2004/2005. Costs are projected to increase by 15 percent annually for FY 2003/2004 and FY 2004/2005. It is anticipated that $3000 in printing costs will be incurred with the publishing of this rule.

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

Revenue collections of state and local governmental units will not be affected. These rule changes are being published to simplify the administrative procedures of the Program and to bring the Plan of Benefits in conformance with statute.

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

This rule change will impact those EPO members that utilize the benefits that are being changed. There are 6 major changes that will result from this rule change as outlined on the schedule prepared by the Program's consulting actuary, Milliman, USA. These changes are: 1) Permit retirees who enroll in Tricare for Life to reenroll in OGB; 2) Eliminate exclusion for self inflicted injury; 3) Implement a $200/month maximum for protein food products; 4) Maintain the extended therapy benefit; 5) Delineate the appeals process in accordance with the MNRO act, and 6) Modify the Schedule of Benefits and provide a more equitable distribution of payments.

IV. ESTIMATED EFFECT ON COMPETITON AND EMPLOYMENT (Summary)

Competition and employment will not be affected.

A. Kip Wall
Chief Executive Officer
0208#099

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Division of Administration
Office of Telecommunications Management

Telecommunications Building Access Standards
(LAC 4:IX.707)

In accordance with R.S. 39:140, R.S. 39:141, R.S. 39:143, R.S. 39:1751, R.S. 39:1752, R.S. 39:1753, R.S. 39:1754, and R.S. 39:1755, and the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Telecommunications Management hereby proposes to amend LAC Title 4, Part IX. Chapter 7, by adding Section 707. Telecommunications Building Access Standards. In accordance with Act 1183 of 1999, the Office of the Governor, Division of Administration, Office of Telecommunications Management has given written consideration to the proposed Rule's impact on family. The proposed rule should have no impact on any family as defined in R.S. 49:972.D or on family formation, stability, and autonomy. In accordance with R.S. 49:972.C, the written family impact statement will be kept on file in the Office of Telecommunications Management.

Title 4
ADMINISTRATION
Part IX. Telecommunications
Chapter 7. Telecommunications Service Standards
§707. Telecommunications Building Access Standards

A. In general, telecommunications access to state-owned buildings shall be made through an as-needed competitive procurement activity that includes provisions and requirements for building access as a part of the state's needs to acquire telecommunications services. This Section is not

applicable to those telecommunications service providers that have existing access facilities in state-owned buildings. In special cases where a telecommunications service provider is building out its network and desires access to a new or existing state-owned building in that process, this Section shall apply.

B. When determined by the Office of Telecommunications Management and with the concurrence of the agency/owner to be in the best interest of the state, building access and space in state-owned buildings may be made available to telecommunications service providers. It is the state's intention to provide access to the building through a state-owned and state-provided conduit system.

C. The Office of Telecommunications Management shall be responsible for developing a standard building access agreement. The Office of Telecommunications Management shall be responsible for developing installation standards and guidelines for use by telecommunications service providers. The Office of Telecommunications Management shall coordinate the processing of all requests by telecommunications service providers for building access. The telecommunications service provider shall be responsible for initiating a written request for building access to the Office of Telecommunications Management that contains specific details of accommodation requirements and types of services offered. The agency/owner shall be responsible for sending all requests from telecommunications service providers to the Office of Telecommunications Management. Each building access agreement shall be signed by the agency/owner and the telecommunications service provider and approved by the Office of Telecommunications Management.

D. The criteria for accommodation shall be first come/first served, reasonable availability of space, a demonstrated need for the type of service to be provided, and safety considerations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:140-141, 143, R.S. 39:1751-1755.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Telecommunications Management, LR 28:

Interested persons may direct inquiries until 5 p.m., September 10, 2002, to Nino Salvaggio, Assistant Director, Office of Telecommunications Management, P.O. Box 94280, Baton Rouge, LA 70804-9280, telephone (225) 342-7701.

Joseph A. Lanier
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Telecommunications Building Access Standards

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

There will be no implementation costs to state or local governmental units.

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 costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Nino Salvaggio	Robert E. Hosse
Assistant Director	General Government Section Director
0208#070	Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Office of Financial Institutions

Capital Companies Tax Credit Program
(LAC 10:XV.323)

Under the authority of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 51.1929(5) of the Louisiana Capital Companies Tax Credit Program, R.S. 51:1921 et seq., notice is hereby given that the Commissioner of Financial Institutions intends to adopt the following new rule to provide for the levy of fees and assessments upon certified Louisiana capital companies.

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

Family Impact Statement

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

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than September 19, 2002, at 4:30 p.m., to Gary L. Newport, General Counsel, Office of Financial Institutions, Post Office Box 94095, Baton Rouge, LA 70804-9095, or by delivery to 8660 United Plaza Boulevard, Second Floor, Baton Rouge, LA 70809.

John D. Travis
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Capital Companies Tax Credit Program

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

There will be no implementation costs or savings associated with the adoption of this Rule by either state or local governmental units. The proposed Rule simply adopts a fee and assessment schedule that will result in the certified Louisiana capital companies bearing the cost this office incurs in the administration of this program. As a result of the enactment of this Rule, costs which had been paid by the securities section of this office to the certified Louisiana capital companies program will now be paid by the entities regulated. These costs relate to main office personnel costs attributable to the program and are approximately $68,767, $71,518, and $74,378 for fiscal years FY 03, FY 04, and FY 05, respectively. Therefore, these

amounts will now accrue to the state general fund, absent the need for an appropriation of all or a portion of these funds associated with the securities section of the Office of Financial Institutions.

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

Revenue collections by this office resulting from the implementation of this proposed Rule are estimated to be $102,167 for FY 03, $94,918 for FY 04, and $107,678 for FY 05. This amount equates to the estimated cost of the administration of the certified Louisiiana capital companies program that is not currently being paid by the companies. No effect is anticipated with respect to local governmental units.

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

The estimated fees and assessments which will be collected as a result of the adoption of this proposed Rule are $102,167 for FY 03, $94,918 for FY 04, and $107,678 for FY 05. These amounts are based on our best estimate of the costs that will be incurred in the administration of the certified Louisiana capital companies program (excluding annual examination time that is currently billed on a per/hour basis based on the actual examination hours).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment as a result of the implementation of this Rule. The Rule merely establishes an assessment and fee structure whereby the certified Louisiana capital companies bear the cost of regulation.

John D. Travis	Robert E. Hosse
Commissioner	General Government Section Director
0208#057	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Office of Public Health

Sanitary Code**C**General Provisions
(LAC 51:I.101, 107, 109, 111, and 113)

Notice is hereby given, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health, pursuant to the authority in R.S. 40:5, intends to amend and revise Part I, Chapter 1, §101, §107, §109, §111, and §113 of the Louisiana State Sanitary Code. These changes are needed to provide for penalties/sanctions as authorized by Act 516 of the 2001 Regular Session of the Louisiana Legislature.

The first proposed rule change, to amend Chapter 1, §101, would add definitions for: Compliance Order, Notice of Violation, Violation, Class A Violation, Class B Violation, Class C Violation, Class D Violation, and Violator and delete wording from the definition for State Health Officer.

The second proposed rule change, to amend §107, would clarify the title and delete wording from subsection A urging correction thereof.

The third proposed rule change, to amend §109, would correct the method of serving the Notice of Violation letter to the owner or agent of an establishment.

The fourth proposed rule change, to amend §111, would add Compliance Order to the title, require correction of the violation(s) within 20 days after said Compliance Order is served, provide that the Compliance Orders shall be served by the United States Postal Service, via certified mail-return receipt requested, registered mail-return receipt requested, or express mail-return receipt requested, or hand delivered, and state that the aggrieved party has the right to appeal to the Division of Administrative Law within 20 days after said Compliance Order is served.

The fifth proposed rule change, to amend §113, would add civil fines or penalties to the title and provides for four classes of violations, specific fines for each type of violation, means for determining duration of noncompliance, imposition of penalty assessment, and the mitigation of fines/penalties.

Title 51
PUBLIC HEALTHC SANITARY CODE
Part I. General Provisions

Chapter 1. General

§101. Definitions
[formerly paragraph 1:001]

A. - B. ...

*Code***C**the word "Code" means Sanitary Code.

*Compliance Order***C**a written notice issued by the state health officer and the secretary of the Department of Health and Hospitals, which documents violation(s) of the state sanitary code and references the provision(s) of the code violated, to the owner, manager, lessee or their agent, of an establishment, facility or property, and specifies a time frame for compliance. The Compliance Order shall be issued after violation(s) have been documented in an inspection and the same violation(s) continue and are documented in a reinspection. The Compliance Order shall inform the aggrieved party of the possible penalties for failure to comply with the Compliance Order and the right of the aggrieved party to an administrative appeal to the Division of Administrative Law.

*CFR***C**Code of Federal Regulations.

*Department***C**the Department of Health and Hospitals and Secretary means the Secretary thereof.

*EPA***C**United States Environmental Protection Agency.

*FDA***C**United States Food and Drug Administration.

*Emergency Situation***C**refers to any situation or condition which warrants immediate enforcement measures more expedient than normal administrative violation control and abatement procedures due to its perceived imminent or potential danger to the public health.

*Hazard***C**a biological, chemical, or physical property that may cause an unacceptable consumer health risk.

*Imminent Health Hazard***C**an emergency situation that is a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury or serious illness.

*Law***C**applicable local, state, and federal statutes, regulations, and ordinances.

*Notice of Violation***C**a written notice issued to the owner, manager, lessee or their agent of an establishment, facility or property which documents the nature of the violation(s) of the state sanitary code, including a reference to the provision(s) of the Code which have been violated,

which were observed during an inspection by a representative of the State Health Officer.

*Person***C**any natural person, individual, partnership, corporation, association, governmental subdivision, receiver, tutor, curator, executor, administrator, fiduciary, or representative of another person, or public or private organization of any character.

*Secretary***C**see *department*.

*Shall***C***mandatory requirements*.

*Should or May***C**recommended or advisory procedures or equipment.

*State Health Officer***C**the legally appointed or acting State Health Officer of the Department of Health and Hospitals having jurisdiction over the entire State of Louisiana, and includes his/her duly authorized representative in accordance with R.S. 40:4 and 40:5.

*Substantial Renovation***C**

a.i. alterations or repairs made within a 12 month period, costing in excess of 50 percent of the then physical value of the existing building; or

ii. alterations or repairs made within a 12 month period, costing in excess of $15,000; or

iii. alterations or repairs made involving a change in "occupancy classification" or use of the property.

b. The physical value of the building in Clause a.i of this Paragraph may be established by an appraisal not more than three years old, provided that said appraisal was performed by a certified appraiser or by the tax assessor in the parish where the building is located.

c. The cost of alterations or repairs in Clause a.ii or a.iii of this Paragraph may be established by:

i. an estimate signed by a licensed architect or a licensed general contractor; or

ii. by copies of receipts for the actual costs.

*Violation***C**a transgression of a section or subsection of the state sanitary code. Violations are classified into four classes corresponding to the severity of the violation:

*Class A Violation***C**violations that create a condition or occurrence, which may result in death or serious harm to the public. Class A civil fines shall be $100 per day per violation.

*Class B Violation***C**violations related to permitting, submitting of plans, or training requirements. Class B civil fines shall be $75 per day per violation.

*Class C Violation***C**violations that create a condition or occurrence, which creates a potential for harm by indirectly threatening the health and/or safety of the public or creates a nuisance to the public. Class C civil fines shall be $50 per day per violation.

*Class D Violation***C**violations related to administrative, ministerial, and other reporting requirements that do not directly threaten the health or safety of the public. Class D civil fines shall be $25 per day per violation.

*Violator***C**any person who has been issued a Notice of Imposition of penalty for noncompliance with any provision of a compliance order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:1693 (October 2001), repromulgated LR 28:1208 (June 2002), amended LR 28:

§107. Delivery of the Notice of Violation [formerly paragraph 1:007-2]

A. The Notice of Violation form listing the violation(s) may:

1 - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:1693 (October 2001), repromulgated LR 28:1208 (June 2002), amended LR 28:

§109. Violation Notice [formerly paragraph 1:007-4]

A. In those cases in which the State Health Officer or his/her representative determines that a violation has occurred and a decision is made to issue a Notice of Violation letter, the Notice of Violation letter shall be either sent to the owner, manager, lessee or their agent, of the establishment, facility or property involved by United States Postal Service, via certified mail-return receipt requested, registered mail-return receipt requested, or express mail-return receipt requested, or hand delivered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:1693 (October 2001), repromulgated LR 28:1208 (June 2002), amended LR 28:

§111. Reinspection and Compliance Order [formerly paragraph 1:007-5]

A. If reinspection discloses that the violation(s) specified in the Notice of Violation have not been remedied, the state health officer or his/her representative may issue a Compliance Order requiring correction of the violation(s) within 20 days after said Compliance Order is served, or take whatever action is authorized by law to remedy the violation(s). Compliance Orders shall be served by United States Postal Service, via certified mail-return receipt requested, registered mail-return receipt requested, or express mail-return receipt requested, or hand delivered. Any Compliance Order issued pursuant to this section shall inform the aggrieved party of his right to an administrative appeal to the Division of Administrative Law within 20 days after said Compliance Order is served.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:1693 (October 2001), repromulgated LR 28:1208 (June 2002), amended LR 28

§113. Suspension/Revocation/Civil Fines or Penalties [formerly paragraph 1:007-21]

A. Pursuant to the provisions of R.S. 40:4, R.S. 40:5 and R.S. 40:6, the state health officer acting through the Office of Public Health, for violation(s) of a Compliance Order may:

1. suspend or revoke an existing license or permit;

2. seek injunctive relief as provided for in R.S. 40:4 and in 40:6; and/or

3. impose a civil fine.

a. These civil fines shall not exceed $10,000 per violator per calendar year applicable to each specific establishment, facility, or property that the violator owns,

manages, operates or leases. The schedule of civil fines by class of violations shall be as follows:

i. Class A. Violations that create a condition or occurrence, which may result in death or serious harm to the public. These violations include, but are not limited to: cooking, holding or storing potentially hazardous food at improper temperatures; failure to follow schedule process in low acid canned foods or acidified food production; poor personal hygienic practices; failure to sanitize or sterilize equipment, utensils or returnable, multi-use containers; no water; unapproved water source; cross contamination of water; inadequate disinfection of water before bottling; sewage back up; sewage discharge on to the ground; sewage contamination of drinking water; failure to comply with Human Drug Current Good Manufacturing Practices (CGMP); inadequate labeling of foods or drugs regarding life threatening ingredients or information; failure to provide consumer advisories; non-compliant UV lamps or termination control switch on tanning equipment; the inadequate handling and disposal of potentially infectious biomedical wastes; etc. Class A civil fines shall be $100 per day per violation.

ii. Class B. Violations related to permitting, submitting of plans, or training requirements. These violations include, but are not limited to: failure to submit plans or to obtain or hold: a permit to operate; a food safety certificate; a commercial body art certification; tanning equipment operator training; day care training; a license to install, maintain, or pump out sewage systems; etc. Class B civil fines shall be $75 per day per violation.

iii. Class C. Violations that create a condition or occurrence, which creates a potential for harm by indirectly threatening the health and/or safety of the public or creates a nuisance to the public. These violations include, but are not limited to, failure to: properly label food; properly protect food; properly store clean equipment; provide self closing restroom doors; provide adequate lighting; provide hair restraints; provide soap and towels at hand-washing lavatories; clean floors, walls, ceilings and non-food contact surfaces; properly dispose of garbage; maintain onsite sewage systems; provide electrical power to onsite sewage systems; etc. Class C civil fines shall be $50 per day per violation.

iv. Class D. Violations related to administrative, ministerial, and other reporting requirements that do not directly threaten the health or safety of the public. These violations include, but are not limited to, failure to: retain oyster tags; provide Hazard Analysis Critical Control Plans (HACCP); maintain HACCP records; provide consumer information; provide written recall procedures; maintain lot tracking records; turn in onsite sewage system maintenance records or certification of installation; register product labels; etc. Class D civil fines shall be $25 per day per violation.

b. The duration of noncompliance with a provision of the compliance order shall be determined as follows.

i. An investigation shall be conducted by staff for the purpose of determining compliance/noncompliance within 5 working days after the deadline date(s) specified in the compliance order. If non-compliance still exists, staff will provide a copy of the post-order investigation report to the person in charge and daily penalty assessments shall begin to accrue immediately from the date that non-compliance was determined in the post-order investigation report.

ii. The daily penalties shall accrue until such time as the agency has been notified in writing by the person in charge that compliance has been achieved and such compliance verified by agency staff, or upon reaching the maximum penalty cap of $10,000 per violator per calendar year. Upon written notification by the person in charge of compliance, an investigation to verify compliance shall be made within 5 working days of receipt of such notification.

iii. Upon verification by investigation that compliance has been achieved, the penalties will cease to accrue on the date of receipt of notification by the person in charge.

c. The secretary of the Department of Health and Hospitals, upon the recommendation of the state health officer, may exercise his discretion and mitigate these civil fines or in lieu of a civil fine, require the violator or an employee designee to attend training seminars in the area of the violator's operations in cases where he is satisfied the violator has abated the violation and demonstrated a sincere intent to prevent future violations.

d. At the discretion of the state health officer, notice(s) imposing penalty assessments may be issued subsequent to either initial or continued noncompliance with any provision of the compliance order. Notice(s) imposing penalty assessments shall be served by United States Postal Service, via certified mail-return receipt requested, registered mail-return receipt requested, or express mail-return receipt requested, or hand delivered. Within the notice imposing penalty assessment, the state health officer will inform the person in charge of the ability to apply for mitigation of penalties imposed and of the opportunity to petition for administrative appeal within 20 days after said notice is served, according to the provisions of R.S. 49:992 of the Administrative Procedure Act.

e. Once a penalty assessment is imposed, it shall become due and payable 20 calendar days after receipt of notice imposing the penalty unless a written application for mitigation is received by the state health officer within 20 calendar days after said notice is served or a petition for administrative appeal relative to contesting the imposition of the penalty assessment is filed with the Division of Administrative Law, P.O. Box 44033, Baton Rouge, Louisiana 70804-4033 within 20 calendar days after said notice is served.

f. The department may institute all necessary civil action to collect fines imposed.

g. This section shall not be construed to limit in any way the state health officer's authority to issue Emergency Orders pursuant to the authority granted in R.S. 40:4 and §115 of this Part.

h. The provisions of Paragraph 3 and Subparagraph a shall not apply to floating camps, including but not limited to houseboats which are classified as vessels by the United States Coast Guard in accordance with R.S. 40:6 as amended by Act 516 of the 2001 Regular Legislative Session.

4. - 5.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:1693

(October 2001), repromulgated LR 28:1208 (June 2002), amended LR 28:

Family Impact Statement

In compliance with the provisions of R.S. 49:972 as legislated by Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this above proposed rule on the family has been considered. The proposed rule has no known impact on the family functioning, stability, nor autonomy, as described in R.S. 49:972.

A public hearing on the adoption of this proposed rule change will be held on Wednesday, September 25, 2002 at 1:00 pm at 6867 Bluebonnet Blvd., Room 229, Baton Rouge, LA. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing.

Interested persons may submit written comments to James Antoon, Chief, Sanitarian Services, 6867 Bluebonnet Blvd., Baton Rouge, LA 70810, by 4:30 p.m. on the next day following the public hearing as scheduled. He is responsible for responding to inquiries regarding this adoption.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Sanitary Code C General Provisions

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

There will be an estimated $560 implementation cost for the publication of this rule-making in the *Louisiana Register*.

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

There will not be any effect on revenue collections of state or local governmental units from this rule.

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

There will not be any costs and/or economic benefits to directly affected persons or non-governmental groups from this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will not be any effect on competition and employment from this rule.

Madeline McAndrew	H. Gordon Monk
Assistant Secretary	Staff Director
0208#072	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Office of Public Health

Sanitary Code C Retail Food Establishments
(LAC 51:XXIII.101, 903, 911, 1119, 1305, 1315, 1321, 1501, 1503, 2101, 2503, 3105, 3111, 3117, 3307, 3901, and 4121)

Notice is hereby given, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health, pursuant to the authority in R.S. 40:5, intends to amend and revise Part XXIII, Chapter 1, §101; Chapter 9, §§903 and 911; Chapter 11, §1119; Chapter 13, §§1305.A.6, 1315, and 1321; Chapter 15, §§1501 and 1503; Chapter 21, §2101; Chapter 25, §2503.A.1; Chapter 31, §§3105, 3111, and 3117; Chapter 33, §3307; Chapter 39, §3901; and Chapter 41, §4121. These changes are needed in order for this state to clarify these sections and/or comply with the latest recommendations of the 2001 FDA Model Food Code.

Title 51
PUBLIC HEALTH C SANITARY CODE
Part XXIII. Retail Food Establishments

§101. Definitions
[formerly paragraph 23:001]

A. - *Offal*. ...

Open Air Market C a site that deals in produce that is normally peeled or washed prior to consumption.

Organizer/Promoter/Chairman - Potentially Hazardous Food.b. ...

c. *potentially hazardous food* does not include:

i. an air-cooled hard-boiled-egg with shell intact, or a shell egg that is not hard-boiled, but has been treated to destroy all viable *Salmonellae;*

c.ii. – *Wholesome*. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:311 (February 2002), repromulgated LR 28:1208 (June 2002), amended LR 28

§903. Fingernails
[formerly paragraph 22:06-2]

A. Employees shall keep their fingernails clean and trimmed not to exceed the end of the fingertip. An employee shall not wear nail polish, long, or artificial fingernails when working with exposed food unless wearing intact gloves in good repair.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:311 (February 2002), repromulgated LR 28:1208 (June 2002), amended LR 28:

§911. Tasting, Eating and Drinking
[formerly paragraph 23:034-1]

A. Employees shall eat and drink only in designated areas where the contamination of exposed food, equipment, utensils or other items needing protection cannot result, except an employee may drink from a closed beverage container if the container is handled properly to prevent contamination.. An employee may not use a utensil more than once to taste food that is to be sold or served.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:311 (February 2002), repromulgated LR 28:1208 (June 2002), amended LR 28

§1119. Eggs
[formerly paragraph 22:08-9]

A. - B. ...

C. Shell eggs which have not been specifically processed to destroy all live *Salmonellae* before distribution to the consumer shall be labeled with the following safe handling statement on the label of the shell eggs: "SAFE HANDLING INSTRUCTIONS: To prevent illness from bacteria: keep

eggs refrigerated, cook eggs until yolks are firm and cook foods containing eggs thoroughly."

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:311 (February 2002), repromulgated LR 28:1208 (June 2002), amended LR 28:

§1305. Cooking/Reheating
[formerly paragraph 22:09-3]

A. - A.5. ...

6. 130°F (54°C) minimum internal temperature for beef roasts or to a temperature and time that will cook all parts of the roast as required by the following:

a. in an oven that is preheated to the temperature specified for the roast's weight in the following chart and that is held at that temperature;

Oven Type	Oven Temperature Based on Roast Weight	
	Less than 4.5 kg (10 lbs)	4.5 kg (10 lbs) or More
Still Dry	350°F (177°C) or more	250°F (121°C) or more
Convection	325°F (163°C) or more	250°F (121°C) or more
High Humidity[1]	250°F (121°C) or more	250°F (121°C) or more
[1] Relative humidity greater than 90 percent for at least 1 hour as measured in the cooking chamber or exit of the oven; or in a moisture-impermeable bag that provides 100 percent humidity.		

and;

b. as specified in the following chart, to heat all parts of the food to a temperature and for the holding time that corresponds to that temperature;

Temperature °F (°C)	Time[1] in Minutes	Temperature °F (°C)	Time[1] in Seconds
130 (54.4)	112	147 (63.9)	134
131 (55.0)	89	149 (65.0)	85
133 (56.1)	56	151 (66.1)	54
135 (57.2)	36	153 (67.2)	34
136 (57.8)	28	155 (68.3)	22
138 (58.9)	18	157 (69.4)	14
140 (60.0)	12	158 (70.0)	0
142 (61.1)	8		
144 (62.2)	5		
145 (62.8)	4		
[1] Holding time may include post-oven heat rise.			

A.7. - B.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:311 (February 2002), repromulgated LR 28:1208 (June 2002), amended LR 28:

§1315. Thawing
[formerly paragraph 22:09-8]

A. Potentially hazardous food shall be thawed by one of the following methods:

1. under refrigeration that maintains the food temperature at 41 °F (5°C) or below;

2. completely submerged under potable running water at a temperature of 70°F (21°C) or below with sufficient velocity to agitate and float off loose particles in an overflow, and for a period of time that does not allow thawed portions of a raw animal food requiring cooking to be above 41°F (5°C) for more than 4 hours including:

a. the time the food is exposed to the running water and the time needed

b. for preparation for cooking; or

b. the time it takes under refrigeration to lower the food temperature to 41°F (5°C);

3. as part of the conventional cooking process;

4. thawed in a microwave oven and immediately transferred to conventional cooking equipment and cooked as specified in §1305, with no interruption of the process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:311 (February 2002), repromulgated LR 28:1208 (June 2002), amended LR 28:

§1321. Temperature Measuring Devices (Thermometers)
[formerly paragraph 22:09-10]

A. - A.1. ...

2. the ambient air temperature of all equipment or a simulated product temperature in all equipment used to hold potentially hazardous food on a device scaled in Fahrenheit accurate to a plus or minus 3°F or Celsius accurate to a plus or minus 1.5°C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:311 (February 2002), repromulgated LR 28:1208 (June 2002), amended LR 28:

§1501. Protected
[formerly paragraph 22:10-1]

A. Food shall be protected from contamination by storing the food:

1. in a clean, covered container except during periods of preparation or service;

2. in a clean, dry location;

3. where it is not exposed to splash, dust, or other contamination;

4. at least six inches (15 cm) above the floor except:

i. metal pressurized beverage containers and cased food packages in cans, glass or other waterproof containers need not be elevated when the food container is not exposed to floor moisture.

ii. containerized food may be stored on dollies, racks or pallets, provided such equipment is readily movable;

5. so that it is arranged so that cross contamination of raw animal foods of one type with another, or ready to eat foods is prevented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:311 (February 2002), repromulgated LR 28:1208 (June 2002), amended LR 28:

§1503. Storage
[formerly paragraph 22:10-2]

A. - A.5. ...

6. under sewer pipes that are not adequately shielded to intercept potential drips;

7. - 10. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:311 (February 2002), repromulgated LR 28:1208 (June 2002), amended LR 28:

§2101. General
[formerly paragraph 22:13]

A. All equipment and utensils shall be of construction approved by the state health officer and shall be maintained in good repair.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:311 (February 2002), repromulgated LR 28:1208 (June 2002), amended LR 28:

§2503. Frequency of Cleaning
[formerly paragraph 22:19-2]

A. Equipment food contact surfaces and utensils shall be cleaned:

1. before each use with a different type of raw animal food such as beef, seafood, lamb, pork, or poultry, except when the food contact surface or utensil is in contact with a succession of different raw animal foods each requiring a higher cooking temperature, as specified in §1305, than the previous food, such as raw fish followed by raw poultry on the same cutting board;

A.2. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:311 (February 2002), repromulgated LR 28:1208 (June 2002), amended LR 28:

§3105. Backflow
[formerly paragraph 22:22-3]

A. - A.2. ...

3. not having a direct connection between the drainage system and any drain line originating from food handling equipment (e.g., any sink where food is cleaned, peeled, cut up, rinsed, battered, defrosted, or otherwise prepared or handled; potato peelers; ice cream dipper wells; refrigerators; freezers; walk-in coolers and freezers; ice boxes; ice making machines, fountain type drink dispensers; rinse sinks, cooling or refrigeration coils; laundry washers; extractors; steam tables; egg boilers; coffee urns; or similar equipment).

Exception: A commercial dishwashing (warewashing) machine may have a direct connection between its waste outlet and a floor drain when the machine is located within five feet (1.5m) of a trapped floor drain and the machine outlet is connected to the inlet side of a properly vented floor drain trap.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:311 (February 2002), repromulgated LR 28:1208 (June 2002), amended LR 28:

§3111. Toilet Facility
[formerly paragraph 22:22-6]

A. - A.4. ...

B. Floor drains will be provided in restrooms in accordance with Part XIV of the State Sanitary Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:311 (February 2002), repromulgated LR 28:1208 (June 2002), amended LR 28:

§3117. Utility or Service Sink
[formerly paragraph 22:22-9]

A. At least one service sink provided with hot and cold water, or one curbed cleaning facility equipped with a floor drain and hot and cold water, shall be provided and conveniently located for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water and similar waste. The sink shall be located in an area to avoid food contamination.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:311 (February 2002), repromulgated LR 28:1208 (June 2002), amended LR 28:

§3307. Cleaning and Storage
[formerly paragraph 22:23-4]

A. - B. ...

C. Suitable cleaning equipment and supplies such as high pressure pumps, steam, and detergent shall be provided as necessary and hot and cold water shall be provided in accordance with Part XIV of the State Sanitary Code for effective cleaning of equipment and receptacles.

D. Liquid waste from the cleaning operation shall be disposed of as sewage. Methods used for this disposal shall prevent rainwater and runoff from entering the sanitary sewerage system. Dumpster pads may be elevated or curbed, enclosed or covered, and the sanitary sewerage drain provided and protected with a proper cover in accordance with Part XIV of the State Sanitary Code.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:311 (February 2002), repromulgated LR 28:1208 (June 2002), amended LR 28:

§3901. Labeling
[formerly paragraph 22:29-1]

A. ...

B. Working containers used for storing poisonous or toxic materials such as cleaners and sanitizers taken from bulk supplies shall be clearly and individually identified with the common name of the material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:311 (February 2002), repromulgated LR 28:1208 (June 2002), amended LR 28:

§4121. Reduced Oxygen Packaging
[formerly paragraph 22:39]

A. - A.2.d. ...

e. the product is immediately frozen upon packaging and labeled with instructions to keep frozen or maintain at 41°F (5°C) or below and discard the food within 14 days of defrosting.

A.3. - A.4. ...

a. maintain refrigerated food at 41°F (5°C) or below, and

b. discard the refrigerated food if within 14 calendar days from packaging it is not served for on-premises consumption, or consumed if served or sold for off-premise consumption;

5. limits:

a. the refrigerated shelf life to no more than 14 calendar days from packaging to consumption or the original manufacturer's "sell by" or "use by" date, whichever occurs first; or

b. limits the shelf life of frozen product to no more than 14 calendar days from defrosting;

A.6. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:311 (February 2002), repromulgated LR 28:1208 (June 2002), amended LR 28:

Family Impact Statement

In compliance with the provisions of R.S. 49:972 as legislated by Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this above proposed Rule on the family has been considered. The proposed Rule has no known impact on the family functioning, stability, nor autonomy, as described in R.S. 49:972.

A public hearing on the adoption of this proposed Rule change will be held on Wednesday, September 25, 2002 at 2 p.m. at 6867 Bluebonnet Boulevard, Room 229, Baton Rouge, LA. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing.

Interested persons may submit written comments to Jody Guidry, Sanitarian Program Administrator, Retail Food Program, 6867 Bluebonnet Boulevard, Baton Rouge, LA 70810, by 4:30 p.m. on the next day following the public hearing as scheduled. He is responsible for responding to inquiries regarding this adoption.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Sanitary Code C Retail Food Establishments

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

There will be an estimated $400 implementation cost for the publication of this rulemaking in the *Louisiana Register*.

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

There will not be any effect on revenue collections of state or local governmental units from this Rule.

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

There will not be any costs and/or economic benefits to directly affected persons or nongovernmental groups from this Rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will not be any effect on competition and employment from this Rule.

Madeline McAndrew	H. Gordon Monk
Assistant Secretary	Staff Director
0208#073	Legislative Fiscal Office

NOTICE OF INTENT

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

Early and Periodic Screening, Diagnosis and Treatment Dental Program C Reimbursement Fee Increase

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.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides reimbursement for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) dental services under the Medicaid Program. Reimbursement for these services is a flat fee established by the bureau minus the amount that any third party coverage would pay. In compliance with Act 11 of the 2000 Second Extraordinary Session of the Louisiana Legislature, the bureau adopted a Rule to make additional increases to the fees for certain designated dental procedure codes (*Louisiana Register*, Volume 27, Number 8). In addition, the bureau established requirements that EPSDT Dental Program providers process the recipient's last name and first initial, the month and year, and their Medicaid provider number into all new removable dental prosthetics reimbursed under the Medicaid Program. As a result of the allocation of additional funds by the legislature during the 2002 Regular Session, the bureau adopted an Emergency Rule effective July 6, 2002 that increased the reimbursement rates for certain designated dental procedure codes (*Louisiana Register*, Volume 28, Number 10). The bureau now proposes to adopt a Rule to continue the provisions contained in the July 6, 2002 Emergency Rule. In addition, the bureau proposes shortening the identification requirements which must be processed into new removable dental prosthetics.

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 increases the reimbursement fees for certain designated Early and Periodic Screening, Diagnostic and Treatment Dental procedure codes to the following rates:

Procedure Code	Procedure Name	New Rate
00120	Periodic Oral Exam	$ 16.00
00220	Radiograph - Periapical - First Film	$ 6.00
00230	Radiograph - Periapical - Each Additional Film	$ 5.00
00272	Radiographs - Bitewing - Two Films	$ 12.00
01110	Adult Prophylaxis	$ 27.00
01120	Child Prophylaxis	$ 12.00
01351	Sealant - Per Tooth	$ 16.00
02120	Amalgam - Two Surface, Primary	$ 50.00
02130	Amalgam - Three Surface, Primary	$ 60.00
02140	Amalgam - One Surface, Permanent	$ 42.00
02150	Amalgam - Two Surface, Permanent	$ 53.00
02160	Amalgam - Three Surface, Permanent	$ 64.00
02330	Resin – One Surface	$ 45.00
02331	Resin - Two Surface	$ 55.00
02332	Resin - Three Surface	$ 65.00
02930	Stainless Steel Crown, Primary	$ 80.00
02931	Stainless Steel Crown, Permanent	$ 80.00
02950	Crown Buildup	$ 85.00
03220	Pulpotomy - Deciduous Tooth Only	$ 40.00
03310	Root Canal - One Canal	$212.00
03320	Root Canal - Two Canals	$241.00
03330	Root Canal - Three Canals	$306.00
07110	Simple Extraction	$ 38.00
07210	Surgical Extraction	$ 57.00

In addition, the bureau shortens the identification requirements which must be processed into new removable dental prosthetics. EPSDT Dental Program providers shall process into the acrylic base of each new removable dental prosthesis the first four letters of the recipient's last name, first initial, month and year, and the last five digits of the Medicaid provider number. Implementation of the provisions of this Rule shall be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, September 26, 2001 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Early and Periodic Screening, Diagnosis and TreatmentC Dental ProgramC Reimbursement Fee Increase

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 $984,029 for SFY 2002-03, $1,029,771 for SFY 2003-04, and $1,060,664 for SFY 2004-05. It is anticipated that $162 ($81 SGF and $81 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 $2,413,743 for SFY 2002-03, 2,526,068 for SFY 2003-04, and $2,601,850 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 increase expenditures (approximately 2.8 percent) to providers of EPSDT dental services by approximately $3,397,610 for SFY 2002-03, $3,555,839 for SFY 2003-04, and $3,662,514 for SFY 2004-05.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden
Director
0208#080

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Medicaid EligibilityCIncurred Medical Expenses

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 provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule promulgating the Medicaid Eligibility Manual in its entirety by reference in July of 1996 *(Louisiana Register, Volume 22, Number 7)*. Section I of the Medicaid Eligibility Manual explains the eligibility factors used to determine Medicaid eligibility, including consideration of medical expenses incurred by long term care facility residents as allowable deductions for the purpose of determining patient liability. In compliance with a recent clarification of federal regulations, the Bureau has determined it is necessary to amend the provisions contained in Section I of the Medicaid Eligibility Manual governing the deductions allowed for medical expenses incurred by long term care facility residents. Therefore, the Bureau proposes to adopt the following rule to amend the provisions governing incurred medical expenses that may be considered allowable deductions in the determination of patient liability.

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the July 1996 rule governing the treatment of medical expenses incurred by long term care facility residents in the determination of patient liability

Proposed Rule
Long Term Care

A. Allowable Deductions. The following criteria apply to all incurred medical expenses.

1. Deductions must be for an expense incurred by a long term care facility resident who is, or was, eligible for Medicaid vendor payment to a long term care facility during the month the expense was incurred.

2. Each deduction must be for a service or item prescribed by a medical professional (e.g., a physician, a dentist, optometrist, etc.) as medically necessary, and approved by the attending physician to be included as part of the facility's plan of care for the resident.

3. Documentation and receipts for the medical expenses shall contain:

a. the resident's name;

b. the date of the service and/or purchase;

c. facility's name;

d. resident's Medicaid ID number; and

e. an itemization of the medical service and/or purchase.

B. Non-Allowable Deductions. Deductions shall not be allowed for the following incurred medical expenses:

1. medical expenses incurred during a month in which the individual is/was not a resident of a long term care facility and eligible for vendor payment to the long term care facility;

2. prescription drugs not covered under the Medicaid Program, unless the prescribing physician has been notified that the drug is not covered by the Medicaid Program and has stated that an equivalent alternative that is covered cannot be prescribed;

3. expenses which are payable under Medicaid, except when documentation is presented to verify that the expense was denied by Medicaid due to service limitations;

4. expenses for services, equipment and supplies denied by Medicaid as not medically necessary;

a. services, equipment or supplies that require prior authorization for Medicaid payment must be submitted to the Prior Authorization Unit for consideration;

5. expenses for services, equipment or supplies denied by Medicare as not medically necessary;

6. expenses for services, equipment or supplies provided as part of the long term care facility reimbursement rate (i.e., personal care needs, medical supplies, transportation, incontinent supplies, including disposable briefs or adult diapers, etc.);

7. expenses for cosmetics and over-the-counter skin care products;

8. expenses for supplies purchased for the convenience or preference of the long term care facility or the resident's family; or

9. cosmetic/elective procedures (i.e., face lifts or liposuction).

C. Deduction Limitations. The following deduction limitations apply to those medically necessary incurred expenses cited.

1. Dental Services. Deductions for dental services shall be limited to the maximum allowed under the established fee schedule that will be reassessed annually. The fee schedule is based on the BlueCross/BlueShield of Louisiana Key Dental Network Fee Schedule. Denture and denture repairs are subject to the service limits of the Adult Denture Program, unless exceptional medical necessity can be demonstrated. Exceptions to the seven year rule may be allowed as an incurred medical expense deduction when medical necessity can be shown. These exceptions are only allowed when traumatic injuries, surgery to the jaws or a disease causes a dramatic change to the oral condition that makes the original dentures unserviceable.

2. Eyeglasses. Deductions for eyeglasses not otherwise covered by the Medicaid Program are limited to $150 annually. The deduction amount will be reassessed annually.

3. Hearing Aids

a. A one-time deduction, not to exceed $800, is allowed. The deduction amount will be reassessed annually.

b. Hearing aids are approved only when there is a significant hearing loss documented by audiometric or electro physiologic data provided by a licensed physician. A prescription written by a physician or a licensed audiologist is required for the hearing aid (but not for ear molds or hearing aid repairs). The prescription must be dated within the previous six months and must contain medical clearance that use of a hearing aid device by the resident is not medically contra-indicated. The physician or licensed audiologist must also furnish a report including an audiogram, if applicable, all test results and the degree and type of hearing loss. A hearing loss greater than 20 decibels average hearing level is considered significant in hearing range 500-2000 Hz frequency. Additional medical and social information in the report shall include:

i. the recipient's age;

ii. whether he/she has previously used a hearing aid;

iii. whether he/she is currently using an aid and whether it can be repaired;

iv. how long his/her hearing has been impaired; and

v. any other pertinent information.

c. Hearings aids can be purchased from either a licensed audiologist or from a licensed hearing aid dispenser. A provision for training the recipient in the proper use and care of the hearing aid shall be a part of the purchase.

D. Facility Responsibilities and Limitations

1. Nursing facilities will be considered a third party with potential liability for residents who report that medical items or equipment(i.e. dentures, hearing aids etc.) were lost or damaged in the facility. The facility shall be required to file a claim against their own insurance to recoup for the loss. When a nursing facility accepts a resident, they assume responsibility for the person as well as those personal items that are necessary for the resident's individual functioning.

2. Nursing facilities are prohibited from entering into profit sharing agreements with other providers for any services, supplies or equipment provided for under the incurred medical expenses deduction.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box

91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, September 26, 2002 in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Medicaid EligibilityC Incurred Medical Expenses

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 $724,914 for SFY 2002-03, $1,119,701 for SFY 2003-04, and $1,153,292 for SFY 2004-05. It is anticipated that $378 ($189 SGF and $189 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 $1,777,968 for SFY 2002-03, $2,746,668 for SFY 2003-04, and $2,829,068 for SFY 2004-05.

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

Deductions for medical expenses incurred by long term care facility residents will be considered as allowable for the purpose of determining patient liability relative to the total amount to be paid to the long term care facility. Implementation of this proposed rule will increase expenditures in the long term care program by approximately $2,502,504 for SFY 2002-03, $3,866,369 for SFY 2003-04, and $3,982,360 for SFY 2004-05.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden	Robert E. Hosse
Director	General Government Section Director
0208#082	Legislative Fiscal Office

NOTICE OF INTENT

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

Minimum Licensing Standards
Ambulatory Surgical Centers
Stereotactic Radiosurgery
(LAC 48:I.4501, 4503, 4509 and 4571)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend LAC 48:I.4501, 4503, and 4509 as authorized by R.S. 40:2131-2141 and Act 754 of 2001. 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 adopted Regulations governing the licensing of ambulatory surgical centers in March of 1977 (*Louisiana Register*, Volume 3, Number 3). This Rule was repealed and repromulgated to incorporate existing rules into the *Louisiana Administrative Code* (*Louisiana Register*, Volume 13, Number 4). Several provisions were amended by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification in March, 1988 (*Louisiana Register*, Volume 14, Number 3). The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended LAC 48:I.4539 by repealing provisions regarding nursing personnel (*Louisiana Register*, Volume 23, Number 4). The requirements for the periodic processing of cultures contained in LAC 48:I.4561.I were repealed (*Louisiana Register*, Volume 24, Number 2), and LAC 48:I.4523 was amended to remove the language pertaining to the semi-annual sampling of the water supply for bacteria (*Louisiana Register*, Volume 24, Number 10).

Act 754 of the 2001 Regular Session of the Louisiana Legislature amended R.S. 40:2133(A) and 2136 to expand the definition of ambulatory surgical centers to include treatment centers that offer stereotactic radiosurgery by use of a Gamma Knife or similar neurosurgical tool. In addition, the Act directed the department to establish rules and minimum standards for the licensing of ambulatory surgical centers as defined in R.S. 40:2133(A). In compliance with Act 754, the department adopted an Emergency Rule to amend the licensing standards governing the operations of ambulatory surgical centers to exempt facilities operated primarily for the purpose of performing stereotactic radiosurgery procedures from certain requirements (*Louisiana Register*, Volume 28, Number 3). The department proposes to adopt a Rule to continue the provisions contained in the March 21, 2002 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed amendment on the family has been considered. Family stability will remain unchanged with regard to this proposal. Parental authority and rights will not be affected. Since no financial impact is anticipated, there will be no effect on family earnings and budgeting. There will be no effect on the behavior and personal responsibility of children when this change is implemented. Families and local governments will not have to make functional adjustments to comply with this rule change.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the licensing standards governing the operations of ambulatory surgical centers to exempt facilities operated primarily for the purpose of performing stereotactic radiosurgery procedures from certain requirements.

Title 48
PUBLIC HEALTHC GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 45. Ambulatory Surgical Center

§4501. Definitions

A. *Ambulatory Surgical Center*C

1. an establishment with an organized medical staff of physicians, with permanent facilities that are equipped and operated primarily for the purpose of performing surgical procedures, with continuous physician services and registered professional nursing services available whenever a patient is in the facility, which does not provide services or other accommodations for patients to stay overnight, and which offers the following services whenever a patient is in the center:

a. drug services as needed for medical operations and procedures performed;

b. provisions for physical and emotional well-being of patients;

c. provision of emergency services;

d. organized administrative structure; and

e. administrative, statistical, and medical records.

2. *Ambulatory Surgical Center* also means a treatment center that is operated primarily for the purpose of offering stereotactic radiosurgery by use of a Gamma Knife or similar neurosurgical tool.

B. *Standards*Cthe rules, regulations and minimum standards duly adopted and promulgated by the Department of Health and Hospitals with approval of the secretary.

C. *Division*Cthe Bureau of Health Services Financing of the Department of Health and Hospitals.

D. *Department*Cthe Department of Health and Hospitals.

E. *Secretary*Cthe secretary of the Department of Health and Hospitals of the state of Louisiana.

F. - Q.4 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2143.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended LR 14:155 (March 1988), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

§4503. Agency Responsibilities

A. Responsibilities for licensing procedures for ambulatory surgical centers shall be accomplished by the Bureau of Health Services Financing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

§4509. General

A. Except as otherwise specified in §4571, ambulatory surgical centers shall comply with the following:

1. all licensing requirements contained in this Chapter 45; and

2. all applicable sections of the Guidelines for Design and Construction of Hospital and Health Care Facilities.

B. - N. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2143.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended LR 14:155 (March 1988), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:

§4571. Stereotactic Radiosurgery

A. Ambulatory surgical centers operated primarily for the purpose of offering stereotactic radiosurgery by use of a Gamma Knife or similar neurosurgical tool are exempt from:

1. the following requirements in this Chapter 45:

a. Subsection 4509.L;

b. Subsection 4545.B;

c. Subsection 4545.D; and

2. Section 9.5.F5.c of the Guidelines for Design and Construction of Hospital and Health Care Facilities, which provides:

a. "Scrub facilities. Station(s) shall be provided near the entrance to each operating room and may service two operating rooms if needed. Scrub facilities shall be arranged to minimize incidental splatter on nearby personnel or supply carts."

B. The exceptions listed in this §4571 do not apply to ambulatory surgical centers performing surgical procedures in conjunction with stereotactic radiosurgery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, 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 inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, September 26, 2001 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Minimum Licensing Standards C Ambulatory Surgical Centers C Stereotactic Radiosurgery

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

It is anticipated that $189 ($94.50 SGF and $94.50 FED) will be expended in SFY 2001-02 and 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. The department proposes to amend the licensure standards for ambulatory surgical centers to establish requirements for facilities that perform sterotactic radiosurgery procedures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden	H. Gordon Monk
Director	Staff Director
0208#081	Legislative Fiscal Office

NOTICE OF INTENT

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

Nursing Facilities Services C Requirements
(LAC 50:II.10167)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to amend 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 amended in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Human Resources, Office of the Secretary, Office of Family Security, adopted a Rule in January, 1985 establishing penalties for violations of any state or federal regulations or departmental rule that could cause a serious threat to the health, safety or welfare of a nursing home resident (*Louisiana Register*, Volume 11, Number 1). The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing subsequently adopted a Rule establishing the conditions and progression of severity in administering sanctions to nursing facilities (*Louisiana Register*, Volume 18, Number 2). The bureau later adopted a rule repealing the September 20, 1985 Rule that addressed the Standards for Payment for Intermediate Care Facilities I and II and Skilled Nursing Facility services and adopted regulations governing Medicaid reimbursement for nursing facility services (*Louisiana Register*, Volume 22, Number 1). The bureau now proposes to amend the provisions contained in the January 20, 1996 Rule governing Class C violations.

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

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions contained in the January 20, 1996 Rule governing Class C violations.

Title 50
PUBLIC HEALTH C MEDICAL ASSISTANCE
Part II. Medical Assistance Program
Subpart 3. Requirements for Payments
Chapter 101. Requirements for Nursing Facilities
Subchapter L. Sanctions and Appeal Procedures
§10167. General Provisions

A. - C.3.b. ...

c. Class C violations are subject to a civil fine which shall not exceed $1,000 for the first violation. The civil fine for a second Class C violation occurring within an 18-month period from the first violation shall not exceed $2,000 per day. The third Class C violation may result in the initiation of proceedings to terminate the facility's Medicaid agreement and to revoke its license.

C.3.d. - K.10. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:34 (January 1996), 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 inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, September 26, 2002 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time, all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Nursing Facilities Services C Requirements

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

It is anticipated that the implementation of this proposed Rule will have no programmatic fiscal impact for SFY 2002-03, 2003-04, and 2004-05. It is anticipated that $162 ($81 SGF and $81 FED) will be expended in SFY 2002-2003 for the states 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 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 give the bureau the option of not terminating a facility's participation in the Medicaid Program if a third Class C violation occurs. The estimable costs and/or economic benefits to nursing facilities as

a result of the implementation of this proposed Rule cannot be determined.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden	Robert E. Hosse
Director	General Government Section Director
0208#079	Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance
Office of the Commissioner

Regulation 60—Advertising of Life Insurance
(LAC 37:XIII.Chapter 41)

Under the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et. seq., the Department of Insurance gives notice that it intends to amend its existing Regulation 60 relating to the Advertising of Life Insurance.

The proposed amendments are necessary to facilitate regulatory efforts related to advertising over the Internet and other mass communication media, to include additional policy element definitions and to provide for related matters. The proposed amendments affect the following Sections: §§4103, 4105, 4107, 4109, 4111, 4115, and 4117. These amendments will become effective upon final publication in the *Louisiana Register*.

Title 37
INSURANCE
Part XIII. Regulations
Chapter 41. Regulation 60: Advertising of Life Insurance

§4103. Definitions

Advertisement—

1. material designed to create public interest in life insurance or annuities or in an insurer, or in an insurance producer; or to induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace, or retain a policy including:

a. printed and published material, audiovisual material, and descriptive literature of an insurer or insurance producer used in direct mail, newspapers, magazines, radio and television scripts, billboards, similar displays, the Internet or any other mass communication media;

b. descriptive literature and sales aids of all kinds, authored by the insurer, its insurance producers, or third parties, issued, distributed, or used by such insurer or insurance producer including, but not limited to, circulars, leaflets, booklets, web pages, depictions, illustrations, and form letters;

c. material used for the recruitment, training, and education of an insurer's insurance producers which is designed to be used or is used to induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace, or retain a policy;

d. prepared sales talks, presentations, and material for use by insurance producers.

2. *Advertisement*, for the purpose of these Rules shall not include:

a. communications or materials used within an insurer's own organization and not intended for dissemination to the public;

b. communications with policyholders other than material urging policyholders to purchase, increase, modify, reinstate, or retain a policy;

c. a general announcement from a group or blanket policyholder to eligible individuals on an employment or membership list that a policy or program has been written or arranged; provided the announcement clearly indicates that it is preliminary to the issuance of a booklet explaining the proposed coverage.

Department or *Department of Insurance*—the Louisiana Department of Insurance.

Determinable Policy Elements—elements that are derived from processes or methods that are guaranteed at issue and not subject to company discretion, but where the values or amounts cannot be determined until some point after issue. These elements include the premiums, credited interest rates (including any bonus), benefits, values, non-interest based credits, charges or elements of formulas used to determine any of these. These elements may be described as guaranteed but not determined at issue. An element is considered determinable if it was calculated from underlying determinable policy elements only, or from both determinable and guaranteed policy elements.

Guaranteed Policy Elements—the premiums, benefits, values, credits or charges under a policy, or elements of formulas used to determine any of these that are guaranteed and determined at issue.

Insurance Producer—a person [as defined in R.S. 22:1212.D] solicits, negotiates, effects, procures, delivers, renews, continues, or binds policies of insurance for risks residing, located, or intended for issuance in this state.

Insurer—includes any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyd's, Fraternal Benefit Society, and any other legal entity which is defined as an insurer in the *Louisiana Insurance Code* or issues life insurance or annuities in this state and is engaged in the advertisement of a policy.

Nonguaranteed Policy Elements—the premiums, credited interest rates (including any bonus) benefits, values, non-interest based credits, charges, or elements that are subject to company discretion and are not guaranteed at issue. An element is considered nonguaranteed if any of the underlying nonguaranteed elements are used in its calculation. *Policy* includes any policy, plan, certificate, including a fraternal benefit certificate, contract, agreement, statement of coverage, rider, or endorsement which provides for life insurance or annuity benefits.

Pre-need Funeral Contract or *Prearrangement*—an agreement by or for an individual before the individual's death relating to the purchase or provision of specific funeral or cemetery merchandise or services.

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

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 22:1225 (December 1996), amended LR 28:

§4105. Applicability

A. These rules shall apply to any life insurance or annuity advertisement intended for dissemination in this state. In variable contracts where disclosure requirements are

established pursuant to federal regulation, this regulation shall be interpreted so as to eliminate conflict with federal regulation.

B. Every insurer shall establish, and at all times maintain, a system of control over the content, form, and method of dissemination of all advertisements of its policies. A system of control shall include regular and routine notification, at least once a year, to producers and others authorized by the insurer to disseminate advertisements of the requirement and procedures for company approval prior to the use of any advertisements that is not furnished by the insurer and that clearly sets forth within the notice the most serious consequence of not obtaining the required prior approval. All such advertisements, regardless of by whom written, created, designed, or presented, shall be the responsibility of the insurer, as well as the producer who created or presented the advertisement, provided the insurer shall not be responsible for advertisements that are published in violation of written procedures or guidelines of the insurer.

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

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 22:1225 (December 1996), amended LR 28:

§4107. Form and Content of Advertisements

A. - 1. …

B. No advertisement shall use the terms investment, investment plan, founder's plan, charter plan, deposit, expansion plan, profit, profits, profit sharing, interest plan, savings, savings plan, private pension plan, retirement plan or other similar terms in connection with a policy in a context or under such circumstances or conditions as to have the capacity or tendency to mislead a purchaser or prospective purchaser of such policy to believe that he will receive, or that it is possible that he will receive, something other than a policy or some benefit not available to other persons of the same class and equal expectation of life.

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

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 22:1225 (December 1996), amended LR 28:

§4109. Disclosure Requirements

A. - C. …

D. An advertisement shall not use as the name or title of a life insurance policy any phrase which does not include the words *life insurance* unless accompanied by other language clearly indicating it is life insurance. An advertisement shall not use as the name or title of an annuity contract any phrase that does not include the word "annuity" unless accompanied by other language clearly indicating it is an annuity. An annuity advertisement shall not refer to an annuity as a CD annuity, or deceptively compare an annuity to a certificate of deposit.

E. - F. …

G. An advertisement for a life insurance policy containing graded or modified benefits shall prominently display any limitation of benefits. If the premium is level and coverage decreases or increases with age or duration, such fact shall be prominently disclosed. An advertisement of or for a life insurance policy under which the death benefit varies with the length of time the policy has been in force shall accurately describe and clearly call attention to the amount of minimum death benefit under the policy.

H. …

I. Premiums

1. - 4. …

5. An advertisement shall not represent in any way that premium payments will not be required for each year of the policy in order to maintain the illustrated death benefits, unless that is the fact.

6. An advertisement shall not use the term "vanish" or "vanishing premium," or a similar term that implies the policy becomes paid up, to describe a plan using nonguaranteed elements to pay a portion of future premiums.

J. Analogies between a life insurance policy's cash values and savings accounts or other investments and between premium payments and contributions to savings accounts or other investments must be complete and accurate. An advertisement shall not emphasize the investment or tax features of a life insurance policy to such a degree that the advertisement would mislead the purchaser to believe the policy is anything other than life insurance.

K. - M. …

N. No insurance producer may use terms such as *financial planner*, *investment advisor*, *financial consultant*, or *financial counseling* in such a way as to imply that he or she is generally engaged in an advisory business in which compensation is unrelated to sales, unless such actually is the case. This provision is not intended to preclude persons who hold some form of formal recognized financial planning or consultant designation from using this designation even when they are only selling insurance. This provision also is not intended to preclude persons who are members of a recognized trade or professional association having such terms as part of its name from citing membership, providing that a person citing membership, if authorized only to sell insurance products, shall disclose that fact. This provision does not permit persons to charge an additional fee for services that are customarily associated with the solicitation, negotiation or servicing of policies.

O. Nonguaranteed Policy Elements

1. - 5. …

6. An advertisement shall not use or describe determinable policy elements in a manner that is misleading or has the capacity or tendency to mislead.

7. An advertisement may describe determinable policy elements as guaranteed but not determinable at issue. This description should include an explanation of how these elements operate, and their limitations, if any.

8. An advertisement may not state or imply that illustrated dividends under either or both a participating policy or pure endowment will be or can be sufficient at any future time to assure without the future payment of premiums, the receipt of benefits, such as a paid-up policy, unless the advertisement clearly and precisely explains the benefits or coverage provided at that time and the conditions required for that to occur.

P. …

Q. Testimonials, Appraisals, Analysis, or Endorsements by Third Parties

1. - 3. …

4. When an endorsement refers to benefits received under a policy for a specific claim, the claim date, including

claim number, date of loss and other pertinent information shall be retained by the insurer for inspection for a period of five years after the discontinuance of its use or publication.

R. …

S. - S.3. …

T. Introductory, Initial or Special Offers and Enrollment Periods

1. - 2. …

3. An advertisement shall not offer a policy which utilizes a reduced initial premium rate in a manner which overemphasizes the availability and the amount of the reduced initial premium. A reduced initial or first year premium may not be described as constituting free insurance for a period of time. When an insurer charges an initial premium that differs in amount from the amount of the renewal premium payable on the same mode, all references to the reduced initial premium shall be followed by an asterisk or other appropriate symbol which refers the reader to that specific portion of the advertisement which contains the full rate schedule for the policy being advertised.

4. …

U. - W.3. …

4. Any illustrations, depictions or statements containing or based on determinable policy elements shall likewise set forth with equal prominence comparable illustrations, depictions or statements containing or based on guaranteed policy elements.

X. An advertisement of a life insurance policy or annuity that illustrates nonguaranteed values shall only do so in accordance with current applicable state law relative to illustrating such values for life and annuity contracts.

Y. An advertisement for the solicitation or sale of a pre-need funeral contract or prearrangement, as defined in §4103.H, which is funded or to be funded by a life insurance policy or annuity contract shall adequately disclose the following:

1. …

2. the nature of the relationship among the insurance producers, the provider of the funeral or cemetery merchandise or services, the administrator and any other person.

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

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 22:1225 (December 1996), amended LR 28:

§4111. Identity of Insurer

A. The name of the insurer shall be clearly identified in all advertisements, and if any specific individual policy is advertised, it shall be identified either by form number or other appropriate description. If an application is a part of the advertisement, the name of the insurer shall be shown on the application. However, if an advertisement contains a listing of rates or features that is a composite of several different policies or contracts of different insurers, the advertisement shall so state, shall indicate, if applicable, that not all policies or contracts on which the composite is based may be available in all states, and shall provide a rating of the lowest rated insurer and reference the rating agency, but need not identify each insurer. If an advertisement identifies the issuing insurers, insurance issuer ratings need not be stated. An advertisement shall not use a trade name, an insurance group designation, name of the parent company of the insurer, name of a particular division of the insurer, service mark, slogan, symbol, or other device or reference without disclosing the name of the insurer, if the advertisement would have the capacity or tendency to mislead or deceive as to the true identity of the insurer or create the impression that a company other than the insurer would have any responsibility for the financial obligation under a policy.

B. …

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

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 22:1228 (December 1996), amended LR 28:

§4115. Statements about the Insurer

A. An advertisement shall not contain statements, pictures or illustrations which are false or misleading, in fact or by implication, with respect to the assets, liabilities, insurance in force, corporate structure, financial condition, age or relative position of the insurer in the insurance business. An advertisement shall not contain a recommendation by any commercial rating system unless it clearly defines the scope and extent of the recommendation, including but not limited to, placement of insurer's rating in the hierarchy of the rating system cited.

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

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 22:1228 (December 1996), amended LR 28:

§4117. Enforcement Procedures

A. - C. …

D. In addition to any other penalties provided by the laws of this state, an insurer or producer that violates a requirement of this regulation shall be guilty of a violation of Part XXVI, Unfair Trade Practices, of the Louisiana Insurance Code, which regulates the trade practices on the business of insurance by defining and providing for the determination of all acts, methods, and practices which constitute unfair methods of competition and unfair or deceptive acts and practices in this state, and to prohibit the same.

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

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 22:1228 (December 1996), amended LR 28:

§4123. Effective Date

A. This revised regulation shall become effective upon final publication in the *Louisiana Register* and shall apply to any life insurance or annuity advertisement intended for dissemination in this state on or after the effective date.

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

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 22:1229 (December 1996), amended LR 28:

On September 26, 2002, at 9 a.m., the Department of Insurance will hold a public hearing in the Plaza Hearing Room of the Insurance Building located at 950 North. Fifth Street, Baton Rouge, LA 70804 to discuss the proposed amendments as set forth. This intended action complies with the statutory law administered by the Department of Insurance.

Persons interested in obtaining copies of this Regulation or in making comments relative to these proposals may do so at the public hearing or by writing to Barry E. Ward, Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214. Comments will be accepted through the close of business at 4:30 p.m. September 27, 2002.

J. Robert Worley
Acting Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Regulation 60C Advertising of Life Insurance

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

It is not anticipated that the proposed amendments to Regulation 60 would result in any implementation costs or savings to local or state governmental units.

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

The proposed amendments to Regulation 60 are not expected to impact revenue collections. There is a provision for penalties as a result of violations under the Unfair Trade Practices Act in the Louisiana Insurance Code. Few, if any, violations are anticipated. The department staff are not aware of one previous incident that would have resulted in violation and penalty had this Regulation and the proposed amendments been in effect. Data available are insufficient for DOI to estimate how much, if any, revenue might result from violation of the proposed amendments to Regulation 60, but DOI believes that penalties would generate little, if any, revenue.

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

There are no anticipated benefits or costs to directly affected groups or persons as a result of the adoption of the amendments to Regulation 60.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendments to Regulation 60 are not expected to have any impact on competition and employment.

Chad M. Brown	Robert E. Hosse
Deputy Commissioner	General Government Section Director
Management and Finance	Legislative Fiscal Office

0208#068

NOTICE OF INTENT

Department of Natural Resources
Office of Conservation

Fees (LAC 43:XIX.Chapter 7)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Conservation hereby proposes to amend the established fees.

Title 43
NATURAL RESOURCES
Part XIX. Office of Conservation C General Operations
Subpart 2. Statewide Order No. 29-R-02/03

Chapter 7. Fees

§701. Definitions

Application Fee C an amount payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, by industries under the jurisdiction of the Office of Conservation.

Application for Automatic Custody Transfer C an application for authority to measure and transfer custody of liquid hydrocarbons by the use of methods other than customary gauge tanks, as authorized by Statewide Order No. 29-G-1 (LAC 43:XIX.2301 et seq.), or successor regulations.

Application for Commercial Class I Injection Well C an application to construct and/or operate a commercial Class I injection well, as authorized by Statewide Order No. 29-N-1 (LAC 43:XVII.101 et seq.) or Statewide Order No. 29-N-2 (LAC 43:XVII.201 et seq.), or successor regulations.

Application for Commercial Class I Injection Well (Additional Wells) C an application to construct and/or operate additional Class I injection wells within the same filing, as authorized by Statewide Order No. 29-N-1 (LAC 43:XVII.101 et seq.) or Statewide Order No. 29-N-2 (LAC 43:XVII.201 et seq.), or successor regulations.

Application for Commercial Class II Injection Well C an application to construct and/or operate a commercial Class II injection well, as authorized by Statewide Order No. 29-B (LAC 43:XIX.401et seq.) or successor regulations.

Application for Commercial Class II Injection Well (Additional Wells) C an application to construct and/or operate additional commercial Class II injection wells within the same filing, as authorized by Statewide Order 29-B (LAC 43:XIX.401 et seq.), or successor regulations.

Application for Multiple Completion C an application to multiply complete a new or existing well in separate common sources of supply, as authorized by Statewide Order No. 29-C-4 (LAC 43:1301 et seq.), or successor regulations.

Application for Noncommercial Injection Well C an application to construct and/or operate a Class I, II or III noncommercial injection well, as authorized by Statewide Order Nos. 29-B (LAC 43:XIX.401 et seq.), 29-M (LAC 43:XVII.301 et seq.), 29-N-1 (LAC 43:XVII.101 et seq.), and 29-N-2 (LAC 43:XVII.201 et seq.), or successor regulations.

Application for Permit to Drill (Minerals) C an application to drill in search of minerals, as authorized by R.S. 30:28.

Application for Public Hearing C an application for a public hearing as authorized by R.S. 30:1, et. seq.

Application for Substitute Unit Well C an application for a substitute unit well as authorized by Statewide Order No. 29-K-1 (LAC 43:XIX.2901 et seq.), or successor regulations.

Application for Surface Mining Development Operations Permit—An application to remove coal, lignite, or overburden for the purpose of determining coal or lignite quality or quantity or coal or lignite mining feasibility, as authorized by Statewide Order No. 29-O-1 (LAC 43:XV.101 et seq.), or successor regulations.

Application for Surface Mining Exploration Permit—An application to drill test holes or core holes for the purpose of determining the location, quantity, or quality of a coal or lignite deposit, as authorized in Statewide Order No. 29-O-1 (LAC 43:XV.101 et seq.), or successor regulations.

Application for Surface Mining Permit—An application for a permit to conduct surface coal or lignite mining and reclamation operations, as authorized by Statewide Order No. 29-O-1 (LAC 43:XV.101 et seq.), or successor regulations.

Application for Unit Termination—An application for unit termination as authorized by Statewide Order No. 29-L-2 (LAC 43:XIX.3100 et seq.), or successor regulations.

Application to Amend Permit to Drill (Injection or Other)—An application to alter, amend, or change a permit to drill, construct and/or operate an injection, or other well after its initial issuance, as authorized by R.S. 30:28.

Application to Amend Permit to Drill (Minerals)—An application to alter, amend, or change a permit to drill for minerals after its initial issuance, as authorized by R.S. 30:28.*

*Application to Amend Operator (transfer of ownership) for any multiply completed well which has reverted to a single completion, any non-producing well which is plugged and abandoned within the time frame directed by the Commissioner, as well as any stripper crude oil well or incapable gas well so certified by the Department of Revenue shall not be subject to the application fee provided herein.

Application to Commingle—An application for authority to commingle production of gas and/or liquid hydrocarbons and to use methods other than gauge tanks for allocation, as authorized by Statewide Order No. 29-D-1 (LAC 43:XIX.1500 et seq.), or successor regulations.

Application to Process Form R-4—application for authorization to transport oil from a lease as authorized by Statewide Order No. 25 (LAC 43:XIX.900 et seq.), or successor regulations.

BOE—annual barrels oil equivalent. Gas production is converted to BOE by dividing annual mcf by a factor of 6.

Capable Gas—natural and casing head gas not classified as incapable gas well gas or incapable oil well gas by the Department of Revenue and Taxation.

Capable Oil—crude oil and condensate not classified as incapable oil or stripper oil by the Department of Revenue.

Class I Well—a Class I injection well used to inject hazardous or nonhazardous, industrial, or municipal wastes into the subsurface, which falls within the regulatory purview of Statewide Order Nos. 29-N-1 (LAC 43:XVII.101 et seq.) or 29-N-2 (LAC 43:XVII.201 et seq.), or successor regulations.

Class I Well Fee—an annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, on Class I wells in an amount not to exceed $400,000 for Fiscal Year 2000-2001 and thereafter.

Class II Well—a Class II injection well which injects fluids which are brought to the surface in connection with conventional oil or natural gas production, for annular disposal wells, for enhanced recovery of oil or natural gas, and for storage of hydrocarbons. For purposes of administering the exemption provided in R.S. 30:21.B(1)(c), such exemption is limited to operators who operate Class II wells serving a stripper oil well or an incapable gas well certified pursuant to R.S. 47:633 by the Severance Tax Division of the Department of Revenue and Taxation and located in the same field as such Class II well.

Class III Well—a Class III injection well which injects for extraction of minerals or energy.

Emergency Clearance—emergency authorization to transport oil from lease.

Production Fee—an annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, by oil and gas operators on capable oil wells and capable gas wells based on a tiered system to establish parity on a dollar amount between the wells. The tiered system shall be established annually by rule on capable oil and capable gas production, including nonexempt wells reporting zero production during the annual base period, in an amount not to exceed $2,450,000 for Fiscal Year 2002-2003 and thereafter.

Production Well—any well which has been permitted by and is subject to the jurisdiction of the Office of Conservation, excluding wells in the permitted and drilling in progress status, Class II injection wells, liquid storage cavity wells, commercial salt water disposal wells, Class V injection wells, wells which have been plugged and abandoned, wells which have reverted to landowner for use as a fresh water well (Statewide Order No. 29-B, LAC 43:XIX.137.G, or successor regulations), multiply completed wells reverted to a single completion, and stripper oil wells or incapable oil wells or incapable gas wells certified by the Severance Tax Division of the Department of Revenue and Taxation.

Regulatory Fee—an amount payable annually to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, on Class II wells, Class III wells, storage wells, Type A facilities, and Type B facilities in an amount not to exceed $875,000 for Fiscal Year 2000-2001 and thereafter. No fee shall be imposed on a Class II well of an operator who is also an operator of a stripper crude oil well or incapable gas well certified pursuant to R.S. 47:633 by the severance tax division of the Department of Revenue and located in the same field as such Class II well. Operators of Record, excluding operators of wells and including, but not limited to, operators of gasoline/cycling plants, refineries, oil/gas transporters, and/or certain other activities subject to the jurisdiction of the Office of Conservation are required to pay an annual registration fee of $105. Such payment is due within the time frame prescribed by the Office of Conservation.

Type A Facility—commercial E&P waste disposal facilities within the State that utilize technologies appropriate for the receipt, treatment, storage, or disposal of oilfield waste solids and liquids for a fee or other consideration, and fall within the regulatory purview of Statewide Order No. 29-B (LAC 43:XIX.501 et seq.), or successor regulations.

Type B Facility—commercial E&P waste disposal facilities within the State that utilize underground injection technology for the receipt, treatment, storage, or disposal of only produced saltwater, oilfield brine, or other oilfield

waste liquids for a fee or other consideration, and fall within the regulatory purview of Statewide Order No. 29-B (LAC 43:XIX.501 et seq.), or successor regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:542 (August 1988), amended LR 15:551 (July 1989), LR 21:1249 (November 1995), LR 24:458 (March, 1998), LR 24:2127 (November 1998), LR 25:1873 (October 1999), LR 26:2302 (October 2000), LR 27:1919 (November 2001), LR:28:

§703. Fee Schedule for Fiscal Year 2002-2003

A. Fee Schedule

Application Fees	Amount
Application for Unit Termination	$ 252
Application for Substitute Unit Well	$ 252
Application for Public Hearing	$ 700
Application for Multiple Completion	$ 126
Application to Commingle	$ 252
Application for Automatic Custody Transfer	$ 252
Application for Noncommercial Injection Well	$ 252
Application for Commercial Class I Injection Well	$1,264
Application for Commercial Class I injection Well (Additional Wells)	$ 631
Application for Commercial Class II Injection Well	$ 631
Application for Commercial Class II Injection Well (Additional Wells)	$ 314
Application for Permit to Drill C Minerals: 0'-3,000'	$ 126
Application for Permit to Drill C Minerals: 3,001'-10,000'	$ 631
Application for Permit to Drill C Minerals: 10,001'+	$1,264
Drill Minerals Deeper (> 3,000')	$ 504
Drill Minerals Deeper (> 10,000')	$ 632
Application to Amend Permit to Drill C Minerals	$ 126
Application to Amend Permit to Drill C Injection or Other	$ 126
Application for Surface Mining Exploration Permit	$ 65
Application for Surface Mining Development Operations Permit	$ 94
Application for Surface Mining Permit	$2,212
Application to Process Form R-4	$ 36
Application to Reinstate Suspended Form R-4	$ 65
Application for Emergency Clearance Form R-4	$ 65

B. Regulatory Fees

1. Operators of each permitted Type A Facility are required to pay an annual Regulatory Fee of $5,650 per facility.

2. Operators of each permitted Type B Facility are required to pay an annual Regulatory Fee of $2,825 per facility.

3. Operators of record of permitted non-commercial Class II injection/disposal wells are required to pay $ 575 per well.

4. Operators of record of permitted Class III and Storage wells are required to pay $575 per well.

C. Class I Well Fees. Operators of permitted Class I wells are required to pay $9,090 per well.

D. Production Fees. Operators of record of capable oil wells and capable gas wells are required to pay according to the following annual production fee tiers:

Annual Production (Barrel Oil Equivalent)		Fee ($ per Well)
Tier 1	0	14
Tier 2	1-5,000	71
Tier 3	5,001-15,000	201
Tier 4	15,001-30,000	337
Tier 5	30,001-60,000	538
Tier 6	60,001-110,000	741
Tier 7	110,001-9,999,999	908

E. Exceptions

1. Operators of record of each Class I injection/disposal well and each Type A and B commercial facility that is permitted, but has not yet been constructed, are required to pay an annual fee of 50 percent of the applicable fee for each well or facility.

2. Operators of record of each inactive Type A and B facility which have voluntarily ceased the receipt and disposal of E&P waste and are actively implementing an Office of Conservation approved closure plan are required to pay an annual Regulatory Fee of 50 percent of the annual fee for each applicable Type A or B facility.

3. Operators of record of each inactive Type A or B facility which have voluntarily ceased the receipt and disposal of E&P waste, have completed Office of Conservation approved closure activities and are conducting a post-closure maintenance and monitoring program, are required to pay an annual Regulatory Fee of 25 percent of the annual fee for each applicable Type A or B facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:543 (August 1988), amended LR 15:552 (July 1989), LR 21:1250 (November 1995), LR 24:458 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2304 (October, 2000), LR 27:1920 (November 2001), LR 28:

§705. Failure to Comply

A. Operators of operations and activities defined in §701 are required to timely comply with this Order. Failure to comply within 30 days past the due date of any required fee payment will subject the operator to civil penalties provided in Title 30 of the Louisiana Revised Statutes of 1950, including but not limited to R.S. 30:18.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:1251 (November 1995), LR 24:459 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2304 (October, 2000), LR 27:1921 (November 2001), LR 28:

§707. Severability and Effective Date

A. The fees set forth in §703 are hereby adopted as individual and independent rules comprising this body of rules designated as Statewide Order No. 29-R-02/03, and if any such individual fee is held to be unacceptable, pursuant to R.S. 49:968.H(2), or held to be invalid by a court of law, then such unacceptability or invalidity shall not affect the other provisions of this order which can be given effect without the unacceptable or invalid provisions, and to that end the provisions of this order are severable.

B. This Order (Statewide Order No. 29-R-02/03) supercedes Statewide Order No. 29-R-01/02.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:1251 (November 1995), LR 24:459 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2305 (October, 2000), LR 27:1921 (November 2001), LR 28:

Family Impact Statement

In accordance with RS 49:972, the following statements are submitted after consideration of the impact of the proposed rule on family as defined therein.

1. The proposed rules will have no effect on the stability of the family.

2. The proposed rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The proposed rules will have no effect on the functioning of the family.

4. The proposed rules will have no effect on family earnings and family budget.

5. The proposed rules will have no effect on the behavior and personal responsibility of children.

6. Family or local government are not required to perform any function contained in the proposed rules.

Comments and views regarding the proposed fees will be accepted until 4:30 p.m., Wednesday, October 2, 2002. Comments should be directed, in writing, to Engineering Division, P.O. Box 94275, Baton Rouge, LA 70804-9275.

A public hearing will be held at 9 a.m., Thursday, September 26, 2002 in the Conservation and Mineral Resources Hearing Room, First Floor, LaSalle Building, 617 North Third Street, Baton Rouge, Louisiana.

James H. Welsh
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Fees

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

There are no implementation costs (savings) to state or local governmental units.

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

Statewide Order No. 29-R-02/03 will replace Statewide Order No. 29-R-01/02 and will result in an increase of collections by the Louisiana Office of Conservation of 8.5 percent in Application Fees (from $2,506,074 to $2,719,074), and an increase in Production Fees on capable oil and gas wells by $200,000 per year (from $2,250,000 to $2,450,000). These fee increases were authorized by the passage of Act Nos. 97 and 105 of the First Extraordinary Session of 2002. Local governmental units will not be affected.

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

Proposed Statewide Order No. 29-R-02/03 will result in an increase of collections by the Louisiana Office of Conservation of 8.5 percent in Application Fees (from $2,506,074 to $2,719,074), assessed to industries under the jurisdiction of the Office of Conservation. Additionally, it will result in an increase in Production Fees on capable oil and gas wells by $200,000 per year (from $2,250,000 to $2,450,000), assessed to operators of capable oil and capable gas wells, Class I injection wells and non-exempt Class II injection wells. These fee increases were authorized by the passage of Act Nos. 97 and 105 of the 2002 First Extraordinary Session of the Legislature.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment.

Felix J. Boudreaux	Robert E. Hosse
Assistant Commissioner of Conservation	General Government Section Director Legislative Fiscal Office

0208#102

NOTICE OF INTENT

Department of Natural Resources
Office of Conservation

Notice of Incidents Involving Release of Exploration and Production (E&P) Waste or Possible Environmental Contaminants (LAC 43:XIX.Chapter 47)

The Department of Natural Resources, Office of Conservation, in accordance with R.S. 30:4 et seq. and the Administrative Procedure Act, R.S. 49:950 et seq., hereby proposes to adopt LAC 43:XIX, Subpart 20, Chapter 47, Environmental Contamination Notice. These Rules concern notice of incidents involving release of exploration and production (E&P) waste or possible environmental contaminants.

Purpose

The purpose of these regulations is to provide better public awareness of incidents involving environmental contamination that may pose an immediate and/or ongoing health or safety risk which are subject to the jurisdiction of the Office of Conservation, to set requirements for notice of such incidents and to establish a process that assures that other agencies are notified of any incident of environmental contamination known to pose an immediate and/or ongoing health or safety risk that is discovered by or made known to the Office of Conservation whether or not such incident or contamination is within the jurisdiction of such office.

Applicability

These rules shall be applicable to all operations which are subject to the jurisdiction of the Office of Conservation. The rules shall apply to any incident involving the release of Exploration and Production (E&P) Waste or any environmental contaminate that is suspected to pose an immediate and/or ongoing threat to any person not involved in responding to such incident and any other incident determined by the Commissioner to warrant notice.

Examples would include, but are not limited to:

1. pipeline ruptures or explosions;

2. blow-outs where the offending well is flowing uncontrolled to the atmosphere and/or underground source of drinking water (USDW) and/ or surface water;

3. sites where assessment and/or remediation have established contamination above levels dictated by Office of Conservation regulations and the atmosphere and/or a USDW and/or surface water have or may have been impacted; and

4. any escape of an injected substance from the permitted injection zone to the atmosphere and/or a USDW and/or surface water.

The provisions of these rules shall not apply to:

1. areas of environmental contamination where there is no known public threat; the contamination is contained both horizontally and vertically solely within the property of the operator; and containment/remediation efforts have begun and are ongoing;

2. releases defined by applicable statutes, rules, or regulations as not being reportable; and

3. releases or discharges that occur pursuant to a permit from a state or federal agency.

Title 43

NATURAL RESOURCES

Part XIX. Office of ConservationC General Operations

Subpart 20. Environmental Contamination Notice

Chapter 47. Release of Exploration and Production (E&P) Waste

§4701. General

A. In the event an operator subject to the jurisdiction of the Office of Conservation has an incident involving a release of E&P Waste that may pose an immediate public health risk, or has reasonable cause to believe that there is the presence of an environmental contaminant outside of containment which exceeds applicable federal and/or state health, or safety standards, poses a risk of adverse health effects and is within the area of their operations, whether or not the contamination is caused by these operations, manmade, or natural conditions, such operator shall give notice to the public and appropriate agencies as provided herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation LR 28:

§4703. Notice Requirements

A. Notice shall be given to the public by the most efficient and expeditious means and may include, but is not limited to, the following:

1. posting of signs in the area where they can be readily seen by any affected, or potentially affected, member of the public;

2. publication of notice in the official parish journal in each parish where the contamination is located, or may be located;

3. issuing a press release to each newspaper, television, and radio station in each parish where the contamination is located, or may be located;

4. mailing of certified letters to each property owner and resident within the area where contamination is located, or may be located;

5. personal visits to each property owner or resident within the area where contamination is located, or may be located;

6. any combination of the above, or other such notice as will reasonably provide notice to such persons who are, or may be, affected by such contamination.

B. The notice required herein shall contain:

1. a description of the area which may be affected by the contamination;

2. a list or description of the contaminants which are known or reasonably suspected to be present; and

3. information regarding any potential adverse health effects posed by the contamination.

C. Notice shall be given immediately by the most expedient means and also in writing, via certified mail, to:

1. the Louisiana Department of Health and Hospitals;

2. the Louisiana Department of Environmental Quality;

3. the Louisiana Department of Agriculture and Forestry;

4. the Louisiana Department of Wildlife and Fisheries;

5. the Louisiana State Police;

6. the Louisiana Office of Conservation;

7. the Louisiana Department of Natural Resources; and

8. the local governing authorities (examples: sheriff, police jury, parish council, etc.).

D. The applicable federal and/or state health and safety standards may be obtained by contacting the Louisiana Department of Health and Hospitals, the Louisiana Department of Environmental Quality, the Louisiana Department of Transportation and Development, the U.S. Environmental Protection Agency, or other appropriate federal and state agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation LR 28:

§4705. Exceptions and Penalties

A. It is recognized that prudent operations conducted as a result of an incident that is subject to this rule might bring the situation under control, eliminating the public health or safety threat before the assessment of affected area and type notice is complete. Under such circumstances, public notice shall not be required so long as:

1. there was no intentional delay in such assessment in an effort to reach that conclusion;

2. notice was provided to the Commissioner of Conservation; and

3. the Commissioner waives further notice.

B. The giving of notice as provided herein shall be in addition to any other notice required by state, federal or local law.

C. The operator shall provide the Office of Conservation with a detailed description of the efforts to give notice at the time such notice is given pursuant to this rule, and shall maintain records of the method or methods utilized in giving the required notice for a period of 10 years after the last notice has been given.

D. If the Commissioner of Conservation determines an incident requiring notice exists for which there is no responsible operator, the Office of Conservation shall initiate notice as required by this rule.

E. Any operator who fails to give notice as provided herein shall be responsible for all cost incurred by the Office of Conservation and may be liable for civil penalty as set forth in R.S. 30:18 and other appropriate regulatory sanctions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation LR 28:

§4707. Liability

A. The giving of notice as provided herein shall not constitute an admission of responsibility or liability by the Office of Conservation or the reporting operator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation LR 28:

Family Impact Statement

In accordance with RS 49:972, the following statements are submitted after consideration of the impact of the proposed Rule on family as defined therein.

1. The proposed rules will have no effect on the stability of the family.

2. The proposed rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The proposed rules will have no effect on the functioning of the family.

4. The proposed rules will have no effect on family earnings and family budget.

5. The proposed rules will have no effect on the behavior and personal responsibility of children.

6. Family or local government are not required to perform any function contained in the proposed rules.

Comments and views regarding the proposed rule will be accepted until 4:30 p.m., Wednesday, October 2, 2002. Comments should be directed, in writing, to Office of Conservation, Engineering Division 9th Floor, Post Office Box 94275, Baton Rouge, LA 70804-9275 Re: Docket No. 02-480, or by facsimile to (225) 342-3705.

A public hearing will be held at 9 a.m., Thursday, September 26, 2002 in the auditorium, located on the First Floor, LaSalle Building, 617 North Third Street, Baton Rouge, Louisiana.

James H. Welsh
Commissioner of Conservation

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Notice of Incidents Involving Release of Exploration and Production (E&P) Waste or Possible Environmental Contaminants

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

Implementation of the proposed rule will result in an estimated $10,000 increase of expenditures for operating expenses; however, it is impossible for the Agency to accurately project the total amount of increased expenditures due to insufficient information and inexperience at this time.

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

At this time, there are no anticipated effects on revenue collections by State or local government units; however, it is possible that in the future increased public awareness may generate increased fines and penalties for violations that result from environmental contamination, which would be collected by other State or local government units.

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

At present, it is impossible to determine an accurate estimate of anticipated costs to the industry regulated by this Agency in order to comply with the new Environmental Compliance Notification requirements; however, a very rough estimate would be approximately $35,000. This estimate is based on ten potential incidents, estimated at $3,500 per incident, of which $1,000 per incident would be for assessment, and $2,500 per incident would be for notification and administrative expenditures. This estimate will, in all probability, need to be increased in the future to address actual figures once we have experience with this matter.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment in the public and private sector.

Felix J. Boudreaux	Robert E. Hosse
Assistant Commissioner	General Government Section Director
of Conservation	Legislative Fiscal Office

0208#101

NOTICE OF INTENT

Department of Public Safety
Office of State Police

Collection, Submission, Receipt, Identification, Storage and Disposal of DNA Samples**C**Arrestees
(LAC 55:I.2730-2727)

Pursuant to R.S. 15:601 et seq. and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Public Safety and Corrections, Public Safety Services, Office of State Police intends to adopt LAC 55:I.Chapter 27. Notice is further given that the Department intends to promulgate the following rules and regulations which establish guidelines for the collection, submission, receipt, identification, storage and disposal of DNA samples for arrestees as defined in R.S. 15:601 et seq.

Title 55
PUBLIC SAFETY
Part I. State Police
Chapter 27. Collection, Submission, Receipt, Identification, Storage and Disposal of DNA Samples
Subchapter B. Arrestees

§2720. Scope, Purpose and Application

A. Scope, Purpose, and Application. To provide rules and regulations governing the collection, submission, receipt, identification, storage and/or disposal of DNA samples for arrestees for a state database/CODIS pursuant to R.S. 15:601 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 28:

§2721. Definitions

*AFIS***C**the Automated Fingerprint Identification System operated by the Department of Public Safety and Corrections, Public Safety Services.

*Arrestee***C**a person arrested for a felony sex offense, other specified offense or any other offense for which a DNA sample must be obtained pursuant to R.S. 15:601 et seq.

*Biological Sample***C**biological evidence of any nature that is utilized to conduct DNA analysis.

*CAJUN***C**the Corrections and Justice Unified Network operated by the Department of Public Safety and Corrections.

Crime Laboratory—Louisiana State Police Crime Laboratory of the Department of Public Safety and Corrections, Public Safety Services.

Department—Department of Public Safety and Corrections, Public Safety Services.

Director—the director of the Louisiana State Police Crime Laboratory.

DNA—deoxyribonucleic acid.

DNA Analysis—DNA typing tests that generate numerical identification information and are obtained from a DNA sample.

DNA Database—the DNA identification record system maintained and administered by the Director.

DNA Arrestee Database Collection Kit or Kit—the kit provided by the Department for the collection of DNA samples.

DNA Record—DNA information that is derived from a DNA sample and DNA analysis and is stored in the state DNA database or in CODIS, including all records pertaining to DNA analysis.

DPS&C—Department of Public Safety and Corrections.

Evidence Technician—individual authorized by the Director to perform the duties set forth in LAC 55:I.2301 et seq.

FBI—Federal Bureau of Investigation within the United States Department of Justice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 28:

§2722. Collection, Submission, and Identification of DNA Samples for Arrestees

A. All biological samples obtained for DNA Analysis from an arrestee shall be collected using an approved Louisiana State Police Crime Laboratory DNA Arrestee Collection kit as supplied by the department.

1. An arrestee collection kit shall contain materials for collection of a biological sample for use in DNA analysis.

2. Each kit shall be numbered sequentially from one kit to the next so that each kit number shall serve as a unique identifier. Any DNA Database Arrestee Collection Kit Envelope, Kit Arrestee Shipping Envelope, DNA Arrestee Database Information Card, DNA Database Collection Card or AFIS or CAJUN Printout identifying the arrestee that may be used as part of the kit shall have the same number as the kit used for collection.

3. All biological samples shall be collected by individuals trained and approved to serve as collectors by the Louisiana State Police Crime Laboratory.

4. The collector shall complete an Arrestee DNA Database Information Card or utilize an AFIS or CAJUN Printout which contains the identifying information of the arrestee when obtaining a sample.

a. In the event an Arrestee DNA Database Information Card is used, the collector shall fill in all requested information as completely as possible.

b. If an AFIS or CAJUN printout is used, identifying information of the arrestee will be contained on the printout.

c. An Arrestee DNA Collection Card or a space on the AFIS or CAJUN printout utilized for all necessary collection information shall be filled out as completely as possible and shall include the following information: name of collector, signature of collector, date and time of sample collection.

5. All biological samples shall be obtained using recognized and approved medical procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 28:

§2723. Security of Biological Samples at Booking Facility

A. All collectors and employees of the booking facility shall ensure that all biological samples taken from arrestees are kept in a secure place within the booking facility until the samples are shipped to the Crime Laboratory pursuant to these regulations. All collectors shall also ensure that pursuant to R.S. 15:617 and any Biological Sample Security Procedures established by the Crime Laboratory, that no unauthorized disclosures regarding any biological sample taken from any arrestee are permitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 28:

§2724. Shipping of DNA Samples for Arrestees

A. DNA samples collected in accordance with these procedures shall be submitted to the Crime Laboratory in person by approved personnel or via delivery service, such as U.S. Mail in accordance with the Crime Laboratory's Quality Manual. The mailing envelope shall be mailed or delivered to the Crime Laboratory after collection to the following address:

Louisiana State Police Crime Laboratory
376 East Airport Drive
Baton Rouge, LA 70806

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 28:

§2725. Record Keeping of DNA Samples for Arrestees

A. The individual who collects each DNA sample shall provide an accurate, up-to-date list of every DNA sample collected each day of collection. Any failed attempts to collect a sample from an arrestee and the reason for the failure (e.g. refusal of arrestee to submit) shall also be indicated. The list will include the following information: the kit number, the arrestee's name, the name of the person collecting the sample and the submitting agency together with any additional data which the director deems necessary. This information shall be forwarded on an audit form provided by the department to the CODIS DNA Unit on a daily basis, via both facsimile and U.S. Mail. If the mailing envelopes are hand delivered to the Crime Laboratory, the audit form shall accompany the mailing envelopes being delivered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 28:

§2726. Storage of DNA Samples for Arrestees

A. The sealed kits containing DNA samples shall be stored in a dedicated storage area designated by the Crime Laboratory. Access to the sealed kits and to the storage area shall be limited to authorized personnel. Any access to or removal/return of the sealed kit or specimen bags shall be

performed in accordance with Crime Lab Evidence and Handling Policies and Procedures. Only authorized personnel shall open a sealed kit or specimen bag and, and if applicable shall initial and date the broken seal and shall reseal the kit or specimen bag in accordance with standard forensic operating procedures.

B. DNA samples from arrestees on any arrestee DNA Database Collection Cards and AFIS or CAJUN printouts shall be stored for the time period as prescribed by Louisiana law in a secure storage area unless otherwise required in accordance with R.S. 15:614.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 28:

§2727. Severability

A. If any article, section, subsection, sentence, clause or phrase of LAC 55:I:2320 et seq. is for any reason determined to be unconstitutional, contrary to statute, in excess of authority, or otherwise inoperative, such determination shall not affect the validity of any other article, section, subsection, sentence, clause or phrase of LAC 55:I.2301 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 28:

Family Impact Statement

1. The Effect of These Rules on the Stability of the Family. These rules will have no effect on the stability of the family.

2. The Effect of These Rules on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. These rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of These Rules on the Functioning of the Family. These rules will have no effect on the functioning of the family.

4. The Effect of These Rules on Family Earnings and Family Budget. These rules will have no effect on family earnings and family budget.

5. The Effect of These Rules on the Behavior and Personal Responsibility of Children. These rules will have no effect on the behavior and personal responsibility of children.

6. The Effect of These Rules on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. These Rules will have no effect on the ability of the family to perform the function as contained in the proposed Rules as families are not required to collect DNA samples from arrestees. These Rules may have an effect on local governments as local governments which make arrests for a crime for which a DNA sample is required may be required to have their employees trained to collect DNA samples. Any such training will be supplied by the Louisiana State Police Crime Laboratory.

The Superintendent of the Office of State Police will consider comments and public input for a period 35 days following publication. All comments should be directed to Tammy Pruet Northrup, P.O. Box 66614, Mailslip #17, Baton Rouge, LA 70896, 225-925-6216 (phone) 225-925-6217 (facsimile). A tentative public meeting on these rules is currently scheduled for 10 a.m., Wednesday, September 26, 2002 at the Crime Laboratory Conference Room located at 376 East Airport Drive, Baton Rouge, LA 70806. Please call to confirm the date, time and location if you plan to attend.

Christopher A. Keaton
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Collection, Submission, Receipt, Identification, Storage and Disposal of DNA Samples C Arrestees

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

There should be no savings to the Department. The proposed new rules are necessary as a result of the passage of Act No. 737 of the 1997 Regular Legislative Session which requires promulgation of policies and procedures to implement the DNA Detection of Sexual and Violent Offenders Act. The Department is proposing to initiate collections on arrestees. The only implementation costs for these types of collections will be the costs of the DNA arrestee collections kits. The costs of the kits will be paid for from the appropriated Budget for the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, Crime Laboratory CODIS DNA Unit.

The enactment of LAC 55 Part I, Ch.23 et seq. is necessary to establish guidelines for the collection, submission, receipt, identification, storage and disposal of DNA samples for arrestees offenders as defined in R.S. 15:601 et seq.

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

There should be no effect on revenue collections of the state as these rules only establish guidelines for the collection, submission, receipt, identification, storage and disposal of DNA samples for arrestees as defined in R.S. 15:601 et seq. The commencing of sampling arrestees for DNA samples will not raise revenue. There should be no effect on revenue collections of local governments as the programs for which these rules are being adopted are not utilized by local governments.

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

There should be no effect on costs and there should be no economic benefit to directly affected person or non-governmental groups as it relates to the program for which the proposed rules apply. This program provides for the sampling of DNA from arrestees as defined in R.S. 15:601 et seq. There will be no costs to arrestees who will provide the samples in accordance with law and no non-governmental group will be affected by this program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition and employment. The proposed new rules initiate collections of DNA samples from arrestees as defined in R.S. 15:601 et seq. The Office of State Police proposes to utilize existing employees to train individuals who are currently employed at local jails where arrestees are booked and required to provide a DNA sample to collect these samples.

Christopher A. Keaton	Robert E. Hosse
Undersecretary	General Government Section Director
0208#088	Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue
Policy Services Division

Collection of In-State Tax Liabilities by Debt Collection Agencies or the Attorney General's Office
(LAC 61:I.4913)

Under the authority of R.S. 47:1511 and R.S. 47: 1516.1 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.4913, the rules and regulations pertaining to the authority of the secretary to enter into contracts with debt collection agencies or the Attorney General's Office for the collection of in-state tax liabilities.

R.S. 47:1516.1 authorizes the secretary to enter into contracts with debt collection agencies or the Attorney General's Office for the collection of certain in-state tax liabilities. The in-state debt collection contract Request for Proposal will be advertised in the official journal of the state and in one or more newspapers for at least 10 days before the last day that proposals will be accepted. The deadline for inquiries shall be no less than four weeks after the issuance of the Request for Proposal and the due date for submission of the proposals shall be no less than three weeks after the deadline for inquiries. The secretary will select a committee to evaluate the proposals and make a recommendation and applicants will be notified of the selection in a timely manner.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue
Chapter 49. Tax Collection
§4913. Collection of In-State Tax Liabilities by Debt Collection Agencies or the Attorney General's Office

A. Definitions

1. For purposes of this Rule, the following terms shall have the meaning ascribed to them.

Attorney General—the attorney general of the state of Louisiana.

Collection Contractor—the attorney general or one or more private persons, companies, associations, or corporations who provide debt collection services inside the state.

B.1. The secretary is authorized to enter into contracts with collection contractors to facilitate the collection of taxes, interest, penalties, and fees due the department after an obligation has become collectible by distraint and sale.

2. The secretary may only enter into a collection contract after notice by regular mail has been transmitted to the taxpayer at the address given in the last report filed by the taxpayer, or to any address obtainable from any private entity that will provide such address free of charge or from any federal, state, or local government entity, including but not limited to the United States Postal Service or from United States Postal Service certified software.

3. The taxpayer will be informed of the following:

a. that the obligation is a final judgment;

b. all the actions the secretary is authorized to take in order to collect the debt; and

c. that if the debt is not paid within 60 days of the date of the notice, a collection fee not to exceed 25 percent of the total liability will be charged to the account.

4. The taxpayer must pay the full amount of any additional charge for the collection of any taxes, interest, penalties, or fees. If an account is referred to a collection contractor, the additional charge will be paid to the collection contractor.

C. The secretary will consider the following criteria in selecting collection contractors:

1. fees charged;
2. organizational structure;
3. experience with government accounts;
4. computer capabilities including the ability to generate reports and formatting;
5. collection methodology;
6. financial stability; and,
7. personnel resources.

D. Prior to entering into any contract, the secretary will require a performance bond, cash, or securities from the collection contractor in an amount not to exceed $100,000.

E. Once the collection contract is entered into, the secretary will provide information to the collection contractors concerning the accounts of individual taxpayers only to the extent necessary for the collection contractor to fulfill his contractual obligation.

a. The information furnished by the secretary will be considered confidential and privileged by the collection contractor and members of his staff, as provided by R.S. 47:1508.

b. Collection contractors may not take any action that exceeds the authority of the secretary and must follow the Fair Debt Collection Practices Act.

F. With the approval of the secretary, the collection contractor may file suit, at his expense, in the name of the secretary in the courts of this state for the purpose of collecting the tax debt.

G.1. Nothing contained in this Rule shall be construed to affect in any manner any rights and remedies available to the taxpayer.

2. This Rule does not apply to a spouse who qualifies for liability relief under the innocent spouse provisions of R.S. 47:101.B(7).

H. The attorney general will have a right of first refusal for all accounts selected to be sent to a collection contractor.

1. A list of accounts selected will be compiled by the secretary and forwarded to the attorney general for the exercise of his right of first refusal.

2. The right of first refusal shall be exercised within 30 days of the date of mailing or electronic transmission of the list.

3. If the attorney general fails to exercise his right of first refusal within 30 days or refuses to accept an account, the secretary may send the account to any collection contractor meeting the requirements of Subsection C.

4. When the attorney general accepts an account for collection, the collection fee may not exceed 15 percent of the total liability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 47:1516.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Revenue, Office of the Secretary, LR 28:

Family Impact Statement

1. Will the Proposed Rule Affect the Stability of the Family? The implementation of this proposed Rule will have no known or foreseeable effect on the stability of the family.

2. Will the Proposed Rule Affect the Authority and Rights of Parents Regarding the Education and Supervision of Their Children? The implementation of this proposed Rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.

3. Will the Proposed Rule Affect the Functioning of the Family? The implementation of this proposed Rule will have no known or foreseeable effect on the functioning of the family.

4. Will the Proposed Rule Affect Family Earnings and Family Budget? The implementation of this proposed Rule will have no known or foreseeable effect on family earnings and family budget.

5. Will the Proposed Rule Affect the Behavior and Personal Responsibility of Children? The implementation of this proposed Rule will have no known or foreseeable effect on 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? The implementation of this proposed Rule will have no known or foreseeable effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Linda Denney, Miscellaneous Taxes and Regulatory Services, Policy Services Division, 617 North Third Street, Baton Rouge, LA 70802-5428 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., September 25, 2002. A public hearing will be held on September 26, 2002, at 9:30 a.m. at 617 North Third Street, Baton Rouge, LA 70802-5428.

Cynthia Bridges
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Collection of In-State Tax Liabilities by Debt Collection Agencies or the Attorney General's Office

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

If the Department were to contract with private collectors the only state cost associated with this effort would be administrative costs to establish the procedures to assign cases, provide information to the contractor, and track and monitor activities of this effort. If the Department were to contract with the Attorney General, state costs associated with this effort would involve administrative costs as well as the actual collection costs incurred by the Attorney General. Implementation of this proposal will require computer programming and design, additional personnel to maintain and run the application, and tape cartridges to transmit the data as follows: a 4 percent inflation factor was used to project the personal services costs for the subsequent years.

Initial Costs for First Year	
Professional Services	
Computer Program Design and Specifications	$ 2,040
Computer Programming and Testing	$39,000
Total Initial Computer Programming Costs	$41,040
Other Charges-Computer Run Time	$22,750
Acquisitions	$ 192

Recurring Annual Costs	
Personal Services	
1-IT Production Control Tech 3	$32,800
1-IT Application Programmer/Analyst 2	$51,300
Total First Year Personal Services	$84,100
Other Charges-Computer Run Time	$33,600

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

The current out-of-state collection contractors have collected less than 6 percent of the amount of out-of-state uncollectible accounts that exist. Applying that rate to the $52,000,000 of in-state uncollectible accounts suggests that possibly $3,000,000 per year could be collected through this effort. Collection of in-state uncollectible accounts might actually be easier than out-of-state uncollectible accounts, meaning that the collection rate might exceed 6 percent. However, these are accounts that the Department has been unable to collect, and any additional revenue collections from them would be speculative and cannot be estimated.

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

There should be no costs and/or economic benefits to directly affected persons or non-governmental groups as a result of the proposed regulation because these are taxes that are owed to the Department and are currently not collectible.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation should have no effect on competition or employment.

Cynthia Bridges
Secretary
0208#054

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue
Policy Services Division

Use of Dyed Special Fuel by Fire Trucks
(LAC 61:I.3363)

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 proposes LAC 61:I.3363 to provide guidance as to the information to be submitted for the purpose of applying for an "FD" Number as provided in R.S. 47:803.2.

Act 28 of the 2002 Regular Session of the Louisiana Legislature enacted R.S. 47:901(13) defining, for the purposes of the Special Fuels Tax Law, "fire trucks" to mean vehicles built with the capability of operating fire fighting equipment such as hoses, ladders, and pumps and carrying teams of firefighters to fire scenes. Act 28 also enacted R.S. 47:803.2 to allow fire departments or districts that meet certain qualifications to purchase untaxed dyed special fuel for use in the operation of fire trucks and to remit the

applicable state special fuels tax directly to the Department of Revenue on a monthly basis.

To qualify for the direct payment "FD" Number, the fire department or district must certify to the Department of Revenue that the department or district does not have access to bulk storage for tax-paid clear special fuels, that tax-paid clear special fuel is not available within the fire district, and that the only special fuel available within the fire district for use in the fire trucks is untaxed dyed special fuel.

This proposed rule outlines the type of information that is needed to accompany the application for the "FD" Number so that representatives of the Department may determine whether the applying fire department/district meets the established qualifications.

Title 61
DEPARTMENT OF REVENUE
Part I. Taxes Collected and Administered by the Secretary of Revenue
Chapter 33. Petroleum Products: Special Fuels Tax
Subchapter B. Users of Special Fuel
§3363. Use of Dyed Special Fuel by Fire Trucks

A. Before purchasing untaxed dyed special fuel to be used for taxable purposes in fire trucks as defined in R.S. 47:801(13), the fire department or district must submit a Registration Application with the Department of Revenue to obtain a direct payment "FD" Number for reporting untaxed dyed special fuel purchases and remitting the applicable state tax on the fuel used for taxable purposes.

B. The application must be made on a form as prescribed by the secretary and include the following information:

1. the vehicles and equipment for which application is being made;

2. the geographical location and boundaries of the fire district including a map of the fire district;

3. a list of service stations and retail fuel outlets providing special fuel located within the fire district complete with their addresses; and

4. the availability of bulk fuel storage within the fire district to which the fire trucks are authorized access.

C. After an inspection by representatives of the Department, if the qualifications are met, an "FD" Number and certificate will be issued to the applicant that will allow the fire department or district to purchase dyed special fuel for the operation of fire trucks as defined in R.S. 47:801(13).

D. Holders of "FD" Numbers shall file a report with the Department on a monthly basis and provide the information so required in accordance with R.S. 47:803.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Legal Affairs, Policy Services Division, LR 28:

Family Impact Statement

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, arguments, information, or comments on these proposed amendments in writing to Linda Denney, Senior Policy Consultant, Office of Legal Affairs, Policy Services Division, 617 North Third Street, Baton Rouge, LA 70802 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Monday, September 23, 2002. A public hearing will be held on Tuesday, September 24, 2002, at 10 a.m. at 617 North Third Street, Baton Rouge, LA.

Cynthia Bridges
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Use of Dyed Special Fuel by Fire Trucks

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

There should be no implementation costs associated with the proposed rule

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

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

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

There may be minimum effect on the costs for taxpayers who file their tax returns.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule should have no effect on competition or employment.

Cynthia Bridges	H. Gordon Monk
Secretary	Staff Director
0208#052	Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services
Louisiana Rehabilitation Services
Commission for the Deaf

Purchase and Distribution of Assistive Hearing Devices
(LAC 67:VII.305)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services (LRS), proposes to revise the Louisiana Commission for the Deaf's Rules of Operation.

The purpose of this Notice of Intent is to provide for the addition of rules governing the purchase and distribution of assistive hearing devices including hearing aids.

Title 67
SOCIAL SERVICES
Part VII. Louisiana Rehabilitation Services
Chapter 3. Commission for the Deaf
§305. Role And Function

A. - A.10.c. …

d. the purchase and distribution of assistive hearing devices including hearing aids;

i. eligibility for the hearing aid program will include an economic need factor of 250 percent of Federal poverty guidelines, an age factor of 50 years and older, a hearing loss factor of 40 decibels or greater, and individuals may not be eligible for any other State or Federal program providing assistance with hearing aid purchases. Younger individuals who meet all other eligibility requirements may be considered on an individual basis according to funding availability

B. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Louisiana Commission for the Deaf, LR 13:94 (February 1987), amended by the Department of Social Services, Louisiana Rehabilitative Services, Louisiana Commission for the Deaf, LR 17:388 (April 1991), LR 21:589 (June 1995), LR 24:494 (March 1998), LR 28:

The Department of Social Services, Louisiana Rehabilitation Services, Louisiana Commission for the Deaf hereby issues its Family Impact Statement: Proposed revisions to the Louisiana Commission for the Deaf's Rules of Operation to provide for the addition of the purchase and distribution of assistive hearing devices including hearing aids. will have no known impact on family formation, stability, and autonomy as set forth in R.S. 49:972.

Additional copies of this entire text of the revised policy manual my be obtained at Louisiana Rehabilitation Services Headquarters/Commission for the Deaf, 8225 Florida Boulevard, Baton Rouge, LA and at the Office of the State Register, 1201 North Third Street, Baton Rouge, LA.

Interested persons may submit written comments no later than close of business on Friday, September 6, 2002 to Jan Faulkner, Louisiana Commission for the Deaf, Executive Director, 8225 Florida Boulevard, Baton Rouge, LA 70806.

Gwendolyn P. Hamilton
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Purchase and Distribution of Assistive Hearing Devices

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

The anticipated increase of $750,000 is based on the following:

Estimated 500 clients receiving hearing aids at an estimated cost of $1500.00 each for a total of $750,000.

As of July 1, 2002 the Louisiana Commission for the Deaf has 476 eligible clients on a waiting list to receive hearing aids through this program.

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

There are no anticipated increases in revenue.

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

Any Louisiana resident who meets an economic need factor, age factor and hearing loss factor as outlined in the Louisiana Commission for the Deaf Telecommunications/Related Devices Distribution Program Procedures Manual will derive an economic benefit from this program. They will receive hearing aids or other assistive hearing devices at no cost to themselves.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition and employment in the public or private sectors. No other governmental entities provide hearing aids for the population served by this program and all State licensed hearing aid dealers are invited to be involved in this program to provide hearing aids to eligible Louisiana citizens.

James Wallace	Robert E. Hosse
Director	General Government Section Director
0208#063	Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services
Office of Family Support

TANF Initiatives Program—2002 Initiatives
(LAC 67:III.5549, 5551, 5553, and 5557)

Pursuant to the authority granted to the Department of Social Services, Office of Family Support, by the Temporary Assistance for Needy Families (TANF) Block Grant to Louisiana, the agency proposes to adopt LAC 67:III, Subpart 15, §5549. Additionally, the agency proposes to adopt §§5551, 5553, and 5557, and amend §§5511, 5531, and 5547, pursuant to Act 13 of the 2002 Regular Session of the Louisiana Legislature.

Under the provisions of the Temporary Assistance for Needy Families (TANF) Block Grant, a state may expend its Maintenance of Effort (MOE) funds on a variety of services, benefits, and supports that encourage families toward self-sufficiency. By adopting §5549, the agency will provide support to the Office of Community Services for the OCS Child Welfare Programs and state fund expenditures will be counted as the agency's "maintenance of effort".

Act 13 of the 2002 Regular Session of the Louisiana Legislature provides for the expenditure of TANF funds to implement several new TANF Initiatives including the Community Response Initiative, Substance Abuse Treatment Program for Office of Community Services Clients, and Energy Assistance for Low-Income Families. The bill also provides for expansion of the After-School Tutorial Program to include Summer Enrichment Programs. Additionally, the bill authorizes changes in the Micro-Enterprise Development and Housing Services Initiatives. Administration of Micro-Enterprise Development has been transferred from its original administrator, Women's Services, to the Department of Economic Development. The Housing Services program was implemented September 28, 2001, as a pilot program in limited areas of the state. Act 13 amends the program; it will

no longer function as a pilot program in only limited areas but will be accessible statewide.

All programs have been effected by several Declarations of Emergency. Section 5549 was effected by an Emergency Rule signed April 12, 2002. The amendment to Section 5531 was effected by an Emergency Rule signed June 1, 2002. The Rules were published respectively in the May and June 2002 issues of the *Louisiana Register*. Adoption of §§5551, 5553, and 5557, and amendments to §§5511 and 5547 were effected by Declarations of Emergency signed July 1, 2002.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 15. Temporary Assistance to Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5511. Micro-Enterprise Development

A. Effective July 1, 2002, the Office of Family Support shall enter into a Memorandum of Understanding with the Department of Economic Development to provide assistance to low-income families who wish to start their own businesses.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session, Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:871 (April 2002), amended LR 28:

§5531. After-School Tutorial and Summer Enrichment Programs

A. OFS shall enter into a Memorandum of Understanding with the Department of Education to provide after-school tutorial services and, effective June 1, 2002, summer enrichment programs.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; Act 12, 2001 Reg. Session, and Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:352 (February 2002), amended LR 28:

§5547. Housing Services

A. Effective July 1, 2002, the Department of Social Services, Office of Family Support, may enter into Memoranda of Understanding or contracts to create programs that provide transitional, short-term, or one-time housing services to needy families with minor children who participate in self-sufficiency activities, who are at risk of losing existing housing arrangements, who are in an emergency situation, or who face ineligibility because of increased earnings. These services can include but are not limited to: relocation assistance; costs associated with moving or relocation; down payment of deposit and/or initial month's rent; short-term continuation of a housing voucher; down payment for the purchase of a house; housing counseling and home buyer education for prospective homeowners; or other transitional services determined in conjunction with the Department of Social Services and the Division of Administration.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session; Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:871 (April 2002), amended LR 28:

§5549. OCS Child Welfare Programs (Effective April 12, 2002)

A. OFS shall enter into a Memorandum of Understanding with the Office of Community Services (OCS), the state child welfare agency, for collaboration in identifying and serving children in needy families who are at risk of abuse or neglect. Subsequent to the authorization of the U.S. Department of Health and Human Services, Administration for Children and Families, regarding TANF Maintenance of Effort funds, the agency will identify eligible services retroactive to January 1, 2002. The methods of collaboration include:

1. Child Protection Investigation (CPI)**C**comprises services to assess the validity of a report of child abuse or neglect involving a minor child or children residing with a custodial parent, an adult caretaker relative, or a legal guardian, to determine whether an emergency exists, and when deemed necessary, to develop a safety plan which may include coordination of services, emergency removal and placement, referral to OCS Family Services or another appropriate agency, short term counseling, parenting guidance, and/or arrangements for concrete services, such as the Preventive Assistance Fund (PAF) and Reunification Assistance Fund (RAF). CPI, PAF, and RAF activities were previously part of the OCS Emergency Assistance Program, for which federal TANF funds are deemed eligible under section 404(a)2) of 42 USC 604.

2. Family Services**C**comprises services to a child or children and their parents, adult caretakers relative, or legal guardian, after an allegation of child neglect or abuse has been validated, to assist in preventing the removal of a child from his care giver or, where temporary emergency removal has already occurred in validated abuse and/or neglect cases, to help reunite the family by returning the child. Services are also provided to a family who requests protective services on its own when it is believed that a child in the family would be at risk. Elements of Family Services include problem identification, family assessment, risk assessment, safety planning, case planning, counseling, problem resolution, provision of or arrangements for needed services, and/or concrete aid through the Preventive Assistance Fund.

B. These services meet the TANF goal to provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives.

C. Financial eligibility for those services attributable to TANF/Maintenance of Effort funds is limited to needy families which include a minor child living with a custodial parent, an adult caretaker relative, or a legal guardian. A needy family is a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), or Supplemental Security Income (SSI).

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq.; R.S. 46:231 and R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5551. Community Response Initiative
(Effective July 1, 2002)

A. The Department of Social Services, Office of Family Support, may enter into Memoranda of Understanding or contracts with for-profit organizations, non-profit organizations (exempt from taxation under Section 501(c) of the Internal Revenue Code), and state or local public or quasi-public agencies, to develop innovative and strategic programming solutions suited to the unique needs of Louisiana's communities.

B. The services provided by the various partners must meet one, or a combination of, the four TANF goals:

1. to provide assistance to needy families;

2. to end dependence of needy parents by promoting job preparation, work, and marriage;

3. to prevent and reduce out-of-wedlock pregnancies; and

4. to encourage the formation and maintenance of two-parent families.

C. Eligibility for those services meeting TANF goals 1 and 2 is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaChip) benefits, Supplemental Security Income (SSI), Free or Reduced Lunch, or who has earned income at or below 200 percent of the federal poverty level. A needy family consists of minor children, custodial and non-custodial parents, legal guardians, or caretaker relatives of minor children.

D. Eligibility for those services meeting TANF goals 3 and 4 may include any family in need of the provided services regardless of income. A family consists of minor children, custodial and non-custodial parents, legal guardians, or caretaker relatives of minor children.

E. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5553. Substance Abuse Treatment Program for Office of Community Services Clients
(Effective July 1, 2002)

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Office for Addictive Disorders (OAD) wherein OFS shall fund the cost of substance abuse screening and testing and the non-medical treatment of members of needy families referred by, and receiving services in certain parish offices from, the Office of Community Services (OCS).

B. These services meet the TANF goal to end the dependence of needy parents on government benefits by providing needy families with substance abuse treatment so that they may become self-sufficient in order to promote job preparation, work, and marriage.

C. Eligibility for services is limited to custodial and non-custodial parents, legal guardians, or caretaker relatives of minor children who are members of a needy family. A needy family is a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaChip) benefits, Supplemental Security Income (SSI), Free or Reduced Lunch, or who has earned income at or below 200 percent of the federal poverty level and in which any member receives services through OCS as Child Protection Investigation clients, Family Services clients, or Foster Care clients.

D. Services are considered non-assistance by the agency.

E. The program will be offered in the following parish offices: Orleans (Uptown District), Jefferson (West Bank), East Baton Rouge (North District), Terrebonne, St. Landry, Calcasieu, Rapides, Caddo, Ouachita, and Tangipahoa. The parish offices in which the program is available may be expanded at the assistant secretary's discretion based on the availability of funding and a determination of need.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5557. Energy Assistance Program for Low-Income Families
(Effective July 1, 2002)

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Louisiana Housing Finance Agency (LHFA) to provide energy assistance to low-income families based on the availability of funding and a determination of need by the agency, and to educate those families regarding energy conservation. The energy assistance payments shall be provided to LHFA for reimbursement of payments made to utility companies by LHFA on behalf of needy families with minor children.

B. The Office of Family Support hereby declares that all families who have earned income at or below 200 percent of the federal poverty level are in need of energy assistance. Each family's episode of need is evidenced by the seeking of energy assistance under this program.

C. Services meet the TANF goal of providing assistance to needy families so that children may be properly cared for in their own homes or in the homes of relatives by providing funds to help pay the costs of cooling and heating the homes.

D. Eligibility for services is limited to a needy family, that is, a family with minor children who has earned income at or below 200 percent of the federal poverty level.

E. Services are considered non-assistance by the agency as the payments are non-recurrent, short-term, and will not be provided more than once every six months.

F. The payment process will be administered by an outside entity through a contractual agreement. Recipients will be required to provide verification of identity and eligibility as defined for a "needy family" as well as proof of residency at the utility service address. An energy assistance payment of up to $400 will be paid by LHFA directly to the recipient's utility company or provider. The payment may be used for past-due deposits, reconnection fees, current bills, or as credit towards future services.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and Act 13, 2002 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

Family Impact Statement

1. What effect will this rule have on the stability of the family? This rule should have a positive impact on the eligible family's stability by providing services that promote the formation and maintenance of two-parent families.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? This rule will have little effect on parental authority.

3. What effect will this have on the functioning of the family? The TANF Initiatives focus on effecting immediate and long-term improvement of the functioning of the family.

4. What effect will this have on family earnings and family budget? Although these programs do not provide direct cash benefits to the family, they do provide services that are free of cost to the families with the long-term goal of improving the family's earnings.

5. What effect will this have on the behavior and personal responsibility of children? Improvement in behavior and personal responsibility could result from services rendered by the initiatives.

6. Is the family or local government able to perform the function as contained in this proposed rule? No, this is strictly a function of the agency.

All interested persons may submit written comments through September 26, 2002, to Ann S. Williamson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA 70804-9065.

A public hearing on the proposed rule will be held on September 26, 2002, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, LA, beginning at 9:00 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code 225-342-4120 (Voice and TDD).

Gwendolyn P. Hamilton
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: TANF Initiatives ProgramC2002 Initiatives

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

The cost of implementing the new Temporary Assistance for Needy Families (TANF) Initiatives and amending the existing ones is estimated to be $27,000,000 for FY 02/03. The agency will enter into Memoranda of Understanding with state agencies and other entities to provide services for the various programs, and funds for these services will be allocated from Louisiana's TANF Block Grant to the specified departments/agencies. The minimal cost of publishing rulemaking is approximately $480. The total increase in expenditures of $27,000,480 can be met with funds from Louisiana's TANF Block Grant. Future expenditures are subject to legislative appropriation.

There are no costs or savings to local governmental units.

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

Through interagency transfers, the state agencies and other entities detailed in the Notice of Intent will receive increased revenues totaling $27,000,000 to be expended in the provision of services.

There is no effect on revenue collection of local governmental units.

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

There is no immediate cost or economic benefit to any persons or nongovernmental groups. However, the programs have a long-term goal of improving the economic situations of the targeted families.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no impact on competition and employment.

Ann S. Williamson	Robert E. Hosse
Assistant Secretary	General Government Section Director
0208#064	Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Control of Wild Nuisance Quadrupeds
(LAC 76:V.125)

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate Rules governing control of nuisance wild quadrupeds.

Title 76
WILDLIFE AND FISHERIES
Part V. Wild Quadrupeds and Wild Birds
Chapter 1. Wild Quadrupeds
§125. Control of Nuisance Wild Quadrupeds

A. This rule applies only to the control of the wild quadrupeds listed below and only when they are conclusively proven to be creating a nuisance or causing damage to property. The burden of establishing that the animal in question is causing the property damage shall rest with the property owner.

B. The following wild quadrupeds may be taken year-round without permit by the property owner or his designee, but only by trapping or shooting during legal daylight hours: coyote, armadillo, nutria, beaver, skunks, and opossums.

C. Squirrels, rabbits, foxes, bobcats, mink, otter, muskrat, raccoons and any of the other species listed above may be trapped alive and relocated to suitable habitat without permit provided the following conditions are met.

1. Written permission is obtained from the property owner where the animals are to be released and such written permission is carried in possession while transport and release activities are taking place.

2. Animals are treated in a responsible and humane manner and released within 12 hours of capture.

D. Traps shall be set in such a manner that provides the trapped animal protection from harassment from dogs and other animals and direct sun exposure.

E. Nuisance animals listed above may be so controlled only on the owner's property to prevent further damage.

F. Property owners must comply with all additional local laws and/or municipal ordinances governing the shooting or trapping of wildlife or discharge of firearms.

G. No animal taken under this provision or parts thereof shall be sold. A valid trapping license is required to sell or pelt nuisance furbearers during the open trapping season.

H. No species taken under the provisions of this rule shall be kept in possession for a period of time exceeding 12 hours.

I. This rule has no application to any species of bird as birds are the subject of other state and federal laws, rules and regulations.

J. Game animals, other than squirrels and rabbits, may only be taken by hunting during the open season under the conditions set forth under Title 56 of the Louisiana Revised Statutes and the rules and regulations of the Department of Wildlife and Fisheries.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution, Article IX, Section 7, R.S. 56:1, R.S. 56:5, 56:6(10) and (15), R.S. 56:112, et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, 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 Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit comments relative to the proposed rule to Brandt Savoie, Fur and Refuge Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 prior to Thursday, October 3, 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: Control of Wild Nuisance Quadrupeds

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

A slight cost savings (paper, copying, man hours and postage) will result with the implementation of the proposed Rule. Fur and Refuge Division personnel that review and issue Nuisance Animal Control permits will experience a slight decrease in workload due to the reduced paperwork requirement. This will allow the Fur and Refuge Division to direct efforts to other areas.

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

No effect on revenue collections of state or local governmental units is anticipated from the proposed Rule change.

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

The proposed Rule change will eliminate the need for the general public to obtain Nuisance Animal Control permits, thereby eliminating the associated application procedure and reporting requirements. The change will reduce the amount of paperwork and the amount of time currently required in applying for a Nuisance Animal Control permit. From 1998-2001, there were 590 Nuisance Animal Control permits issued, averaging 147 permits per year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is anticipated from the proposed Rule change.

James L. Patton	Robert E. Hosse
Undersecretary	General Government Section Director
0208#062	Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Recreational Electronic Licensing
(LAC 76:I.327)

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate a Rule, LAC 76:I.327.P, which provides a special outdoor press license for purchase by nonresident members of the outdoor press for a fee of $20. The license shall be valid for four consecutive days. Authority for adoption of this Rule is included in R.S. 56:647.1.

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 in government.

Title 76
WILDLIFE AND FISHERIES
Part I. Wildlife and Fisheries Commission and Agencies Thereunder
Chapter 3. Special Powers & Duties
Subchapter H. Electronic Licenses Issuance
§327. Recreational Electronic Licensing

A. - O. …

P. In lieu of recreational basic fishing and recreational saltwater fishing license the Department may issue a special Outdoor Press Fishing License to nonresident members of the outdoor press which will include basic and saltwater fishing; in lieu of basic hunting and Louisiana duck license the Department may issue a special Outdoor Press Hunting License to nonresident members of the outdoor press which will include migratory bird hunting and Louisiana duck license.

1. A fee of $20 will be charged for each outdoor press fishing license issued and the license shall be valid for a period of four consecutive days; a fee of $20 will be charged

for each Outdoor Press Hunting License and the license shall be valid for a period of three consecutive days; or a fee of $20 will be charged for both if purchased for periods that begin on the same date.

2. All outdoor press licenses will be issued from the Baton Rouge Headquarters location.

3. To qualify for certification an applicant must submit to the Department of Culture, Recreation and Tourism one or more of the following:

a. recent tear sheets of published articles;

b. letter of assignment from publication, television or radio company;

c. a written recommendation from one of the Department of Culture, Recreation and Tourism's international offices;

d. a written recommendation from Travel South USA, Louisiana Travel Promotion Association or similar organizations.

4. In no case will the Department of Culture, Recreation and Tourism forward an application from any individual or group not directly involved in producing stories or broadcast materials pertaining to Louisiana fishing and/or outdoor recreation opportunities.

5. Certified applications with all supporting documents and license fees shall be forwarded to the Department of Wildlife and Fisheries for approval. The license fee shall be returned to the applicant for any application not certified by the Department of Culture, Recreation and Tourism or approved by the Secretary of the Department of Wildlife and Fisheries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(21) and R.S. 56:641.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Management and Finance, LR 24:505 (March 1998), amended by Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 26:1078 (May 2000), amended by Department of Wildlife and Fisheries, Office of Management and Finance, LR 27:1243 (August 2001), amended by Department of Wildlife and Fisheries Commission, Wildlife and Fisheries Commission, LR 28:

Interested persons may submit comments relative to the proposed Rule to Ms. Marianne Burke, Public Information Section, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA, 70898-9000, prior to Thursday, October 3, 2002.

Family Impact Statement

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: Recreational Electronic Licensing

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

Implementation of the proposed Rule will be carried out using existing staff and funding levels. An implementation cost of $667 will be incurred by the Department of Wildlife and Fisheries to reprogram the licensing system. Local governmental units will not be impacted.

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

The proposed Rule is anticipated to reduce annual revenue collections of the Department of Wildlife and Fisheries by $4,000. Long term benefits through increased tourism activities from the creation of media products by members of the outdoor press could generate increased revenue collections of state and local governmental units. However, the impacts cannot be quantified at this time.

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

Nonresident members of the outdoor press that qualify for a Outdoor Press Hunting License will benefit from the proposed rule change and realize a cost savings of $80. They will encounter additional paperwork and increased time requirements necessary to obtain a license through this licensing process. Applicants will have to apply with the Department of Culture, Recreation and Tourism to certify that they meet certain criteria and obtain approval by the Department of Wildlife and Fisheries before an Outdoor Press Hunting License can be issued.

Local businesses that provide services to recreational hunters could benefit in the future from the proposed Rule through increased tourism activities resulting from articles and reports produced by members of the outdoor press.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment in the public or private sector.

James L. Patton	Robert E. Hosse
Undersecretary	General Government Section Director
0208#061	Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Alligator Tag Fee (LAC 76:V.701)

Editor's Note: The following Notice of Intent is being repromulgated to reflect a change. The orginial Notice of Intent can be viewed in the May 20, 2002 edition of the *Louisiana Register* on pages 1109-1110.

The Wildlife and Fisheries Commission does hereby advertises its intent to suspend a portion of the alligator tag fee.

Title 76
WILDLIFE AND FISHERIES
Part V. Wild Quadrupeds and Wild Birds
Chapter 7. Alligators
§701. Alligator Regulations

A. The Department of Wildlife and Fisheries does hereby establish regulations governing the harvest of wild populations of alligators and alligator eggs, raising and propagation of farmed alligators, tanning of skins and regulations governing the selling of hides, alligator parts and farm raised alligators. The administrative responsibility for these alligator programs shall rest with the Department Secretary; the Assistant Secretary, Office of Wildlife; and the Fur and Refuge Division.

1. - 3. …

4. Licenses, Permits and Fees

a. The licenses and fees required for activities authorized by these regulations are as prescribed under provisions of Title 56, or as prescribed in these regulations, and are:

i. - x. …

xi. $4 for each alligator hide tag; provided however, that this Commission does hereby suspend the collection of $1 of the $4 tag fee. This suspension shall commence in September 2002 and continue for a period of 2 years or until such time this commission takes further action, whichever occurs first;

4.a.xii. - 17.c. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115, R.S. 56:259, R.S. 56:262, R.S. 56:263, and R.S. 56:280.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:1070 (December 1990), amended LR 17:892 (September 1991), LR 19:215 (February 1993), LR 20:321 (March 1994), LR 26:1492 (July 2000), 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 comments relative to the proposed Rule to Brandt Savoie, Fur and Refuge Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Wednesday, July 3, 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: Alligator Tag Fee

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

There are no anticipated implementation costs or savings to state or local governmental units associated with this proposed rule change.

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

The annual reduction in revenues collected and deposited into the Alligator Resource Fund in FY 02-03 and FY 03-04 is estimated to be $356,667 and $428,000 as a result of this proposed rule change. Reduction in revenue collected and deposited into the Alligator Resource Fund in FY 04-05 is estimated to be $107,000.

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

An annual cost savings of $356,667 and $428,000 to alligator industry participants who are currently assessed the alligator hide fee is estimated to occur in FY 02-03 and FY 03-04, respectively. Cost Savings for FY 04-05 are estimated to be $107,000, since the reduction in the tag fee will end during FY 04-05.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition, as the fee reduction will apply uniformly to all individuals currently paying the fee. Since the proposed fee reduction will result in a cost savings, there may be a positive effect on employment within the alligator industry.

James L. Patton	Robert E. Hosse
Undersecretary	General Government Section Director
0208#059	Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Shrimp Excise Tax
(LAC 76:VII.365)

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate a Rule relative to the excise tax on shrimp in accordance with Act 75 of the 2002 Regular Session of the Louisiana Legislature.

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 Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 3. Saltwater Sport and Commercial Fishing
§365. Shrimp Excise Tax

A. Shrimp Excise Tax, Shrimp Records, Shrimp Packaging

1. A shrimp excise tax shall be paid in accordance with the provisions as set forth in R.S. 56:506. Dealers shall file monthly tax reports and furnish all information required thereon on forms provided by the department. A wholesale/retail seafood dealer shall file a monthly report indicating "zero" in amount due, for each month in which such wholesale/retail seafood dealer does not import shrimp into the state and does not purchase or acquire shrimp harvested in Louisiana directly from a harvesting vessel.

2. Wholesale/retail seafood dealers, retail seafood dealers, restaurants and retail grocers shall maintain records in accordance with R.S. 56:306.5 and 56:506. In addition to the requirements therein, wholesale/retail seafood dealers when selling or otherwise transferring shrimp shall specify on each invoice of sale or transfer required to be delivered to retail dealers, restaurants and/or retail grocers the specific country of origin of the shrimp being sold or transferred. All purchase and sales records of wholesale/retail seafood dealers, which are required to be maintained by law, shall specify the country of origin of all shrimp acquired and sold or transferred. All purchase records of retail dealers, restaurants and retail grocers which are required to be maintained by law, shall specify the country of origin of

shrimp acquired or purchased. Shrimp from different countries shall be recorded separately on all records.

3. All records for shrimp, which are harvested from Louisiana waters or which are landed in Louisiana from a harvesting vessel, shall indicate such shrimp are a "Product of Louisiana" or "Louisiana Shrimp" or "Louisiana (and shrimp species)".

4. It shall be a violation of this section for any wholesale/retail seafood dealer to purchase, barter, sell, exchange or possess any shrimp without paying all excise taxes owed on the shrimp as provided by law.

5. Wholesale/retail seafood dealers shall provide all information required on forms provided for the purpose of data collection relating to the shrimp excise tax. Such information shall include but not be limited to:

a. wholesale/retail seafood dealer license number;

b. month and year, indicating reporting month and year;

c. date of submission, date in which the dealer or authorized representative completes and submits shrimp excise report form;

d. legal name of business;

e. if purchasing or acquiring shrimp from vessels harvesting or landing in Louisiana waters, pounds of such shrimp purchased or acquired; shrimp that are landed in Louisiana by harvesting vessels are deemed to be taken in Louisiana waters;

f. if purchasing, importing, storing, brokering, or receiving shrimp domestically harvested within the United States, pounds of such shrimp purchased, imported, stored, brokered or received;

g. if purchasing, importing, storing, brokering, or receiving shrimp from a foreign country, pounds of such shrimp purchased, imported, stored, brokered or received;

h. if purchasing, importing, storing, brokering, or receiving shrimp which were taken, harvested or landed in Louisiana and excise tax has previously been paid and such shrimp are packaged, labeled and recorded to be a "Product of Louisiana" or "Louisiana Shrimp" or "Louisiana (and shrimp species)", indicate the pounds of such shrimp. No shrimp excise tax is due again on such shrimp;

i. for all shrimp reported, the shrimp excise report form shall indicate the form in which all shrimp is purchased, imported, received, brokered or stored (i.e. heads-on, headless, or peeled). Shrimp which are fully cooked, canned cooked or breaded cooked, and frozen cooked shrimp ready for immediate consumption, shall be exempt from the requirements herein;

j. all lines, columns and blocks on the shrimp excise tax report form shall be filled out in order for the form to be deemed completed;

k. signature of dealer or authorized representative, (first and last name) and date.

6. No wholesale/retail seafood dealer, retail seafood dealers, restaurants or retail grocers shall knowingly possess, package, process, sell, barter, exchange or attempt to sell, barter, trade or exchange shrimp which is represented to be a product of the United States or a product of Louisiana unless such shrimp is actually a product of the United States or a product of Louisiana.

7. No wholesale/retail seafood dealer, retail seafood dealers or restaurants shall possess, package, process, sell, barter, exchange or attempt to sell, barter, trade or exchange shrimp from a foreign country which is commingled with shrimp caught in the United States or which is represented to be a product of the United States.

B. Violations of the provisions of this Section shall constitute a class four violation as defined in R.S. 56:34.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:506.

HISTORICAL NOTE: Promulgated by Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 28:

Family Impact Statement

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.

Interested persons may submit comments relative to the proposed rule to Jeff Mayne, Enforcement Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 prior to Thursday, October 3, 2002.

Thomas M. Gattle, Jr.
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Shrimp Excise Tax

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

The proposed shrimp excise tax rule is estimated to increase state expenditures by more than $16,611 annually. Additional costs include printing and distribution of excise tax reporting forms and will increase labor cost associated with scanning and verification of data. In addition, enforcement and educational costs are anticipated to increase and will depend on the level of program compliance associated with this Rule. Local government units will not be impacted by the proposed Rule.

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

State revenue collections are anticipated to increase by the amount of excise tax collected on imported shrimp entering Louisiana. Insufficient data is available at this time to estimate the amount of imported shrimp excise tax that will be collected. Revenue collections of local governmental units will not be effected.

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

Wholesale and retail dealers will be directly impacted by the proposed Rule. They are expected to experience a slight increase in cost due to the implementation of the shrimp excise

tax and additional work load and paperwork required to complete the state's monthly excise tax reporting form. Consumers and first sellers of shrimp products to licensed wholesale and retail dealers will also be impacted, since any increase in costs to dealers will most likely be passed on in the form of a higher sale price and/or lower purchase price. The commercial shrimp industry and shrimp consumers could potentially benefit from this rule, since domestic and imported shrimp products will be easy to identify and track, resulting in improved reaction time to public health issues that may arise in the industry.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment in the private sector may decrease slightly due to anticipated price changes at the consumer and/or harvester/producer levels.

James L. Patton	Robert E. Hosse
Undersecretary	General Government Section Director
0208#060	Legislative Fiscal Office