

Rules

RULE

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School Administrators
CGuidelines for Nonpublic and Home Schooling Students Transferring to the Public School Systems
(LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 741, *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).

At its September 2002 meeting, the State Board of Elementary and Secondary Education revised the Guidelines for Nonpublic and Home Schooling Students Transferring to the Public School Systems: Participation in the LEAP 21. These guidelines provide guidance, clarification to *Bulletin 741 Standards 2.026.06, 2.026.08 and 2.026.09* as they relate to the participation of students transferring into the public schools from nonpublic schools and home schooling. The revisions:

- removed any reference to the special education waiver;
- clarified student eligibility to attend summer remediation;
- clarified eligibility requirements for the appeals process;
- outlined the role of the local Pupil Progression Plan in governing grade placement; and
- defined a Louisiana resident for the purposes of this policy.

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 LR 28:269, 272 (February 2002), LR 28:991 (May 2002), LR 28:1187 (June 2002), LR 29:286 (March 2003).

Guidelines for Nonpublic and Home Schooling Students Transferring to the Public School Systems: Participation in the LEAP 21

Students in Grades 5 and 9 transferring to the public school system from any in-state nonpublic school or any home schooling program, or any Louisiana resident transferring from any out-of-state school shall be required to take the 4th or 8th Grade LEAP 21 English Language Arts

and Mathematics Tests and score at the *Approaching Basic* or above achievement level. The following Guidelines shall apply.

1. Students may take LEAP 21 at either the Spring or Summer administration prior to enrollment. It is the responsibility of the parent to contact the District Test Coordinator to register for the test.

2. The nonpublic school and parent (or home schooling parent) is responsible for providing the District Test Coordinator, at least 10 working days prior to the testing date, any documentation required for requested standard testing accommodations.

3. Students with disabilities who have a current 1508 evaluation will participate in on-level LEAP 21 testing. Promotion decisions for these students will adhere to those policies as outlined in the High Stakes Testing Policy.

4. School systems may charge a fee for the testing of nonpublic and home schooling students. This testing fee shall be refunded upon the student's enrollment in that public school system the semester immediately following the testing.

5. Students who participate in the Spring administration and score at the *Unsatisfactory* achievement level are eligible to retake the LEAP 21 at the Summer administration.

6. Local school systems shall offer LEAP 21 summer remediation to nonpublic/home schooling 4th and 8th Grade students who score at the *Unsatisfactory LEAP 21* achievement level and to those who did not test in the spring, but wish to prepare for the Summer administration. School systems may charge a fee, not to exceed \$100 per student for this attendance. This summer remediation fee shall be refunded upon the student's enrollment in that public school system the semester immediately following summer remediation.

7. Students who score at the *Unsatisfactory* achievement level are not required to attend summer school offered by the local school system to be eligible to take the Summer retest. However, students must attend the LEA offered summer school to be eligible for the appeal process or the policy override.

8. Only those students who score at the *Unsatisfactory* achievement level after participation in both the Spring and Summer administration of the LEAP 21 and who attend the summer school offered by the local school system are eligible for the appeals process or the policy override, provided all criteria are met. (Refer to the High-Stakes Testing Policy.)

9. Students who participate in the Spring administration only or Summer administration only and score at the *Unsatisfactory* achievement level are not eligible for the appeals process or the policy override. These students are not eligible to take The Iowa Tests for placement purposes.

10. Students transferring into local school systems after the LEAP 21 Summer retest but prior to February 15 are

required to take the state selected form of The Iowa Tests for grade placement, if the student has not taken LEAP 21.

11. Students taking The Iowa Tests are not eligible for either a retest or the appeals process. These students may be eligible for the policy override based upon a decision by the School Building Level Committee (SBLC).

12. The High Stakes Testing Policy and the local Pupil Progression Plan shall govern grade placement of students transferring to the local school systems.

Note: A Louisiana resident transferring from any out-of-state school is defined as a student living in Louisiana but attending school in an adjacent state.

Weegie Peabody
Executive Director

0303#018

RULE

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook For School
Administrators C Personal Financial Literacy
(LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 741, *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). This action is a result of recent legislation (R.S. 17:282.3) directing the Board of Elementary and Secondary Education to adopt Rules and guidelines to further enhance efforts to promote financial literacy in schools. The addition of this procedural block to Bulletin 741 will encourage local school systems to integrate the teaching of personal management skills and the basic principles involved with earning, spending, saving, and investing into currently existing courses.

**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 LR 28:269, 272 (February 2002), LR 28:991 (May 2002), LR 28:1187 (June 2002), LR 29:287 (March 2003).

Curriculum

1.087.00 The school system shall plan and implement a continuous program of skills, concepts, and instruction in a learning environment designed to promote excellence in order that every individual may be afforded an equal opportunity to develop to his/her full potential.

The school system shall develop a character education philosophy and implementation plan consistent with its locally developed curriculum.

Any public elementary or secondary school may offer instruction in personal financial management based on the concept of achieving financial literacy through the teaching of personal management skills and the basic principles involved with earning, spending, saving, and investing. Such instruction and subject matter shall be integrated into an existing course of study.

Weegie Peabody
Executive Director

0303#017

RULE

Board of Elementary and Secondary Education

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

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

1. changes in the criterion-referenced test (CRT) labeling system;
2. clarification of the process for schools entering/progressing into Corrective Actions;
3. clarification of the process for offering School Choice to students enrolled in Academically Unacceptable schools;
4. inclusion of the requirement of offering state approved supplemental services to students enrolled in Corrective Actions Level II and III schools; and
5. inclusion of the reporting of subgroup performance.

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 LR 28:269, 272 (February 2002), LR 28:991 (May 2002), LR 28:1187 (June 2002), LR 29:287 (March 2003).

**The Louisiana School and
District Accountability System
School Accountability**

2.006.02 Each school shall be expected to reach 10- and 20-Year Goals that depict minimum educational performances.

K-8 Indicators and Weighting			
Indicators and Weighting	Grades Administered	10-Year Goal	20-Year Goal
CRT (60% K-8)	Grades 4, 8	Average student score at BASIC (Meeting the Standard)	Average student score at MASTERY (Exceeding the Standard)
NRT (30% K-8)	Grades 3, 5, 6, 7	Average composite standard score corresponding to the 55th percentile rank in the tested grade level	Average composite standard score corresponding to the 75th percentile rank in the tested grade level
Attendance (10% K-6; 5% 7-8)		95% (grades K-8)	98% (grades K-8)
Dropout Rate (5% 7-8)		4% (grades 7-8)	2% (grades 7-8)

9-12 Indicators and Weighting					
Indicator	Weight Cycle		Grades Administered	10-Year Goal	20-Year Goal
	1	2			
	CRT— English/language arts and mathematics	60%			
CRT— science and social studies	--	30%	11	Average student score at BASIC (Meeting the Standard)	Average student score at MASTERY (Exceeding the Standard)
NRT		30%	9	Average composite standard score corresponding to the 55 th percentile rank in the tested grade level	Average composite standard score corresponding to the 75 th percentile rank in the tested grade level
Attendance Rate		5%		93%	96%
Dropout Rate		5%		7%	3%

School Performance Scores

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

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

<p>During the fall of 2001 for K-8 schools, each school shall receive two School Performance Scores as follows:</p> <ul style="list-style-type: none"> • a Growth SPS will be calculated using 2001 English language arts/Math LEAP 21 test scores, 2001 Iowa test scores, and 2000 attendance and dropout data. • a new Baseline SPS will be calculated using the average of the 1999-2000 and 2000-2001 English language arts/Math/Science/Social Studies LEAP 21 test scores, the average of the 1999-2000 and 2000-2001 Iowa test scores and the average of the 1999 and 2000 attendance and dropout data. <p>The Growth SPS shall be used to determine Growth Labels and to calculate rewards. The new Baseline shall be used to determine Performance Labels and to calculate the next cycle's Growth Target. The higher SPS (Growth or Baseline) shall be used to determine movement in Corrective Actions. (See Standard 2.006.09)</p>

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

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

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

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

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

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

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

Formula for Calculating an SPS [K-6]

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

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

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

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

Advanced =	200 points
Mastery (Exceeding the Standard) =	150 points
Basic (Meeting the Standard) =	100 points
Approaching Basic (Approaching the Standard) =	50 points
Unsatisfactory =	0 points

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

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

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

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

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

Transition Years [K-8]

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

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

2	1999-2000 & 2000-2001	2001-2002 & 2002-2003	✓	✓	✓	✓	✓	✓	✓	✓
3	2001-2002 & 2002-2003	2003-2004 & 2004-2005	✓	✓	✓	✓	✓	✓	✓	✓

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

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

NRT Goals and Equivalent Standard Scores

Composite Standard Scores Equivalent to
Louisiana's 10- and 20-Year goals, by Grade Level *

Grade					
Goals	Percentile Rank	3	5	6	7
10-Year Goal	55th	187	219	231	243
20-Year Goal	75th	199	236	251	266

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

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

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

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

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

Attendance Index Calculations [K-8]

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

Attendance Goals

	10-Year Goal	20-Year Goal
Grades K-8	95%	98%

Attendance Index Formula

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

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

Lowest Attendance Index Score

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

Dropout Index Calculations

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

Dropout Goals

	10-Year Goal	20-Year Goal
Grades 7 & 8	4%	2%

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

Dropout Index Formulas

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

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

Lowest Dropout Index Score

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

School Performance Scores for 9-12

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

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

Transition Years [9-12]

To accommodate the phase-in of the grades 10 and 11 GEE 21 criterion-referenced tests, the Department shall use the following indicators:

Timelines/School Years			Indicators Included				
Cycle	Baseline SPS Data	SPS Data	Grade 9 NRT	Grade 10 CRT	Grade 11 CRT	Attendance	Dropout
1	2000-01	2002-03	✓	✓		✓*	✓*
2	2001-02 & 2002-03 (avg.)	2003-04 & 2004-05 (avg.)	✓	✓	✓	✓*	✓*
3	2003-04 & 2004-05 (avg.)	2005-06 & 2006-07 (avg.)	✓	✓	✓	✓*	✓*

*Indicates use of prior year data for these indexes.

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

Transition Years [Combination Schools]

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

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

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

Formula for Calculating an SPS – Accountability Cycle 1 (2001) for 9-12 and Combination Schools.
 During the first accountability cycle, the SPS for a sample school shall be calculated by multiplying the index values for each indicator by the weight given to the indicator and adding the total scores. The formula is

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

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

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

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

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

Formula for Calculating an SPS – Accountability Cycle 2 (2003 and beyond) for 9-12 and Combination Schools.
 During the second accountability cycle, the SPS for a sample school shall be calculated by multiplying the index values for each indicator by the weight given to the indicator and adding the total scores. The formula is

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

In this example,

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

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

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

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

NRT Goals and Equivalent Standard Scores for Grade 9

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

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

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

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

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

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

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

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

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

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

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

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

Advanced	200 points
Mastery (Exceeding the Standard)	150 points
Basic (Meeting the Standard)	100 points
Approaching Basic (Approaching the Standard)	50 points
Unsatisfactory	0 points

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

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

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

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

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

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

Example 1 - Grade 9:

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

Example 2 - Grade 10:

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

Attendance Index Calculations for Grades 9-12

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

Attendance Goals

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

Attendance Index Formula for Grades 9-12

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

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

Example:

- If the average attendance percentage is 94.3%, the Attendance Index would be $(16.667 * 94.3) - 1450.0 = 121.7$.

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

Dropout Index Calculations for Grades 9-12

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

Dropout Goals

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

Dropout Index Formula for Grades 9-12

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

Example:

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

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

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

Performance Labels

2.006.07 A Performance Label shall be given to a school that qualifies, in addition to the Growth Label.

The Louisiana Department of Education shall calculate two state averages. A state average shall be calculated for K-8 schools and a state average shall be calculated for 9-12, K-12 and combination schools.

Performance Labels

A school is Academically Unacceptable if it has an SPS < 45.0 points in 2003 and an SPS < 60.0 points in 2005.

Beginning 2003, any Academically Unacceptable school immediately enters Corrective Actions II.

A school that is not Academically Unacceptable but has a SPS < the State Average shall be labeled Academically Below the State Average.

A school that is not Academically Unacceptable but has a SPS < 100.0 points but >the State Average shall be labeled Academically Above the State Average.

**A school with a SPS of 100.0 - 124.9 shall be labeled a *School of Academic Achievement*

**A school with a SPS of 125.0 - 149.9 shall be labeled a *School of Academic Distinction*.

**A school with a SPS of 150.0 or above shall be labeled a *School of Academic Excellence*.

**During the first ten years, a school with these labels shall no longer be subject to Corrective Actions and shall not receive "negative" growth labels. (See Standard 2.006.06.) This school shall continue to meet or exceed its Growth Target to obtain a "positive" growth label, recognition, and possible rewards.

Corrective Actions

2.006.09 A school shall enter in Corrective Actions I if any of the following apply:

- It is Academically Below the applicable State Average and it did not make its Growth Target, or
- It is Academically Above the applicable State Average and has a Growth Label of *School in Decline* or *No Growth*.

A school that enters Corrective Actions shall receive additional support and assistance, with the expectation that extensive efforts shall be made by students, parents,

teachers, principals, administrators, and the school board to improve student achievement at the school. There shall be three levels of Corrective Actions.

All schools in Corrective Actions I shall provide pertinent information to the Louisiana Department of Education concerning steps they have taken to improve student performance in order to document activities related to Corrective Actions I and in light of recent proposed changes in federal programs. This information shall be required on an annual basis.

Requirements for Schools in Corrective Actions I

I. A Revised or New School Improvement Plan

All Louisiana schools were required to have a School Improvement Plan in place by May of 1998. Those schools placed in Corrective Actions I shall be required to review and either revise or rewrite completely their plan, with the assistance of a District Assistance Team, and submit it to the Division of School Standards, Accountability, and Assistance. The plan shall contain the following essential research-based components:

- a. a statement of the school's beliefs, vision, and mission;
- b. a comprehensive needs assessment that shall include the following quantitative and qualitative data:
 - student academic performances on standardized achievement test s (both CRT and NRT) and performance/authentic assessment disaggregated by grade vs. content vs. exceptionality);

<ul style="list-style-type: none"> ●demographic indicators of the community and school to include socioeconomic factors; ●school human and material resource summary, to include teacher demographic indicators and capital outlay factors; ●interviews with stakeholders: principals, teachers, students, parents; ●student and teacher focus groups; ●questionnaires with stakeholders (principals, teachers, students, parents) measuring conceptual domains outlined in school effectiveness/reform research; ●classroom observations; <p>c. measurable objectives and benchmarks;</p> <p>d. effective research-based methods and strategies;</p> <p>e. parental and community involvement activities;</p> <p>f. professional development component aligned with assessed needs;</p> <p>g. external technical support and assistance;</p> <p>h. evaluation strategies;</p> <p>i. coordination of resources and analysis of school budget (possible redirection of funds);</p> <p>j. action plan with time lines and specific activities.</p> <p><i>2. Assurance pages</i> Each school in Corrective Actions I shall be required to provide assurances that it worked with a District Assistance Team to develop its School Improvement Plan, and that the plan has the essential components listed above. Signatures of the team members shall also be required.</p> <p><i>3. A quarterly Monitoring of the Implementation of the School Improvement Plan</i> District Assistance Teams shall assist schools in Corrective Actions I in monitoring the implementation of their School Improvement Plan. All schools in Corrective Actions I shall be required to submit to the Louisiana Department of Education a quarterly report on the implementation of their school improvement plan in paper and/or electronic format.</p> <p><i>4. An Annual Evaluation of the Level of Implementation of the School Improvement Plan</i> This evaluation shall be required on an annual basis. The Louisiana Department of Education shall make every effort to see that the information is collected in a manner that shall be of assistance to the schools and that shall provide feedback to them as they strive to improve student achievement.</p>
--

<p>A school shall enter Corrective Actions Level II if:</p> <ul style="list-style-type: none"> ● It is Academically Unacceptable. <p>A school shall remain in Corrective Actions Level II if: It is Academically Unacceptable, made its Growth Target, and it was in Corrective Actions II the previous cycle.</p>

<p>Corrective Actions Level II: All schools in Corrective Actions II are labeled Academically Unacceptable. All schools in Corrective Actions II must adhere to the requirements of schools in Corrective Actions I; however, Corrective Actions II schools must submit to the Louisiana Department of Education a <i>Monthly Monitoring of the Implementation of the School Improvement Plan</i>.</p> <p>Corrective Actions Level II: A highly trained Distinguished Educator (DE) shall be assigned to a school by the State. The DE shall work in an advisory capacity to help the school improve student performance. The DE shall make a public report to the school board of recommendations for school improvement. Districts shall then publicly respond to these recommendations. Parents shall have the right to transfer their child to a higher performing public school. (See Transfer Policy Standard #2.006.11.)</p> <p><i>Corrective Actions Level II schools that do not attain at least 40% of their growth in the interim year shall provide State Approved Supplemental Service within 60 days of the release of the interim SPSs.</i></p>

<p>A school shall enter Corrective Actions Level III if: it was in Corrective Actions Level II the previous cycle, and Academically Unacceptable and it did not make its Growth Target.</p>

<p>Corrective Actions Level III: The DE shall continue to serve the school in an advisory capacity. Parents shall have the right to transfer their child to a higher performing public school. (See Transfer Policy, Standard #2.006.11.) A district must develop a Reconstitution Plan for the school at the beginning of the first year in this level and submit the plan to the SBESE for approval by February.</p> <p>If a Corrective Actions Level III school has not achieved at least 40% of its Growth Target at the end of the first year and SBESE has approved its Reconstitution Plan, then the school shall implement the Reconstitution Plan during the beginning of the next school year. If the SBESE does not approve the Reconstitution Plan AND a given school does not meet the required minimum growth, the school shall lose its State approval and all State funds.</p> <p>Any reconstituted School's SPS and Growth Target shall be re-calculated utilizing data from the end of its previous year. The SBESE shall monitor the implementation of the Reconstitution Plan.</p>
--

Movement in Corrective Actions

All schools that:

- Have a SPS ≥ 100.0 are exempt from Corrective Actions I, II, and III during the first ten years.
- Are not Academically Unacceptable and meet or exceed their Growth Targets shall exit Corrective Actions I.
- Have a SPS \geq the applicable State Average but < 100.0 must make some growth (0.1 pts) or enter/remain in Corrective Actions I.
- Are not Academically Unacceptable but have a SPS $<$ the applicable State Average must make their Growth Targets or enter/remain in Corrective Actions I.
- Are Academically Unacceptable shall enter in Corrective Actions Level II.
- Are Academically Unacceptable and make their Growth Targets, but remain Academically Unacceptable, shall remain in Corrective Actions II.
- Are Academically Unacceptable and did not make their Growth Targets, but remain Academically Unacceptable, shall enter Corrective Actions Level III.

Determination of Academically Unacceptable schools in 2003 shall be based on the higher of two School Performance Scores: one using an average of the 2001-02 and 2002-03 accountability data, and the other using the 2002-2003 accountability data only.

Corrective Actions Summary Chart

School Level Tasks

Level I

- 1) Utilize the State's diagnostic process or another process meeting State approval to identify needs; and
- 2) Work with District Assistance Team to develop/implement a consolidated improvement plan, including an integrated budget the process must include a) opportunities for significant parent and community involvement, b) public hearings, and c) at least two-thirds teacher approval

Level II

- 1) Continue to adhere to the requirements of Corrective Actions Level I schools;
- 2) Work with advisory Distinguished Educator, teachers, parents, and others to implement revised School Improvement Plan; and
- 3) Distinguished Educator works with principals to develop capacity for change

Level III

- 1) Continue to adhere to the requirements of Corrective Actions Level I schools;
- 2) Distinguished Educator continues to assist with improvement efforts and work with the advisory District Assistance Team and other district personnel to design that school's Reconstitution Plan or No State Approval/No State Funding.
- 3) If Reconstitution Plan is approved by the SBESE: a) implement Reconstitution Plan, and b) utilize data from the end of the previous year to re-calculate school performance goals and Growth Targets
- 4) If Reconstitution Plan is not approved, no State approval/no State funding.

District Level Tasks

Level I

- 1) Create District Assistance Teams to assist schools;
- 2) Identify existing and additional assistance being provided by districts, such as funding, policy changes, and greater flexibility;
- 3) Reassign or remove school personnel as necessary as allowed by law; and
- 4) Ensure Academically Unacceptable schools receive at least their proportional share of applicable state, local, and federal funding.

Level II

- 1) Continue to help schools through the use of District Assistance Teams; Hold public hearing and respond to Distinguished Educator's written recommendations;
- 3) Response in writing submitted to SBESE by local boards no later than 45 days subsequent to receiving the Distinguished Educator's report. Failure to respond to these recommendations will result in the school receiving unapproved status and being ineligible to receive federal subgrantee assistance funds until such response is received;
- 4) Reassign or remove personnel as necessary as allowed by law; and Notify parents of their right to send their children to another public schools no later than 120 days after a school is identified for Corrective Actions II for the subsequent year (Ref. 2.006.11); and Offer state approved supplemental services to students in schools that do not meet 40 percent of their Growth Targets no later than 60 days after the release of the interim year SPS.

Level III
 1) Continue to help schools through the use of District Assistance Teams;
 Continue notifying parents of students attending Academically Unacceptable Schools to send their children to other public schools;
 3) Design Reconstitution Plan and submit to the SBESE by February; and
 At the end of year one, one of the following must occur: a) schools must make adequate growth of at least 40 percent of the Growth Target b) the district implements the Reconstitution Plan approved by the SBESE; and c) the SBESE shall grant non-school approval status; and
 5) Continue to offer state approved supplemental services.
 Reconstitution or No State Approval/Funding
 If Reconstitution Plan is approved by the SBESE, provide implementation support.
 If the Reconstitution Plan is not approved, no State approval/no State funding.

State Level Tasks

Level I
 1) Provide diagnostic process for schools;
 2) Provide training for District Assistance Teams;
 For some Academically Unacceptable Schools only, the SBESE shall assign advisory Distinguished Educators to schools; and
 1) Work to secure new funding and/or redirect existing resources to help schools implement their improvement plans

Level II
 1) Assign advisory Distinguished Educator to schools; and
 2) Work to secure new funding and/or redirect existing resources to help schools implement their improvement plans

Level III
 1) Assign advisory Distinguished Educator to schools for one additional year to assist in the development and design of the Reconstitution Plan;
 2) At end of Year 1, the SBESE shall approve or disapprove Reconstitution Plans. If the SBESE approves the Reconstitution Plan, the Distinguished Educator is assigned an additional year to support and assist with monitoring the implementation of the Reconstitution Plan for schools that fail to make adequate growth;
 3) If a school achieves the required amount of growth during its first year in Level III Corrective Action and proceeds to a second year in Level III, the Distinguished Educator will be assigned to the school for that additional year to support and assist the school in its continued improvements efforts; and
 4) Work to secure new funding and/or redirect existing resources to help schools implement their improvement plans
 Reconstitution or No State Approval/No Funding
 1) If Reconstitution Plan is approved by the SBESE, a) monitor implementation of reconstitution plan; and b) provide additional state improvement funds; and
 2) If Reconstitution Plan is not approved, no State approval/State funding

Reconstitution Plan

2.006.10 Districts shall develop and submit a Reconstitution Plan to the SBESE for approval for any school in Corrective Actions Level III during the first year in that level (by February). This Reconstitution Plan indicates how the district shall remedy the school's inadequate growth in student performance. The plan shall specify how and what reorganization shall occur and how/why these proposed changes shall lead to improved student performance.

If a Corrective Actions Level III school has not achieved at least 40 percent of its Growth Target and SBESE has

approved its Reconstitution Plan, then the school shall implement the Reconstitution Plan during the beginning of the next school year. If the SBESE does not approve the Reconstitution Plan and a given school does not meet the required minimum growth, the school shall lose State approval and all State funds.

School Choice

2.006.11 Parents shall have the right to transfer their child to another public school when the school in which their child is enrolled enters Corrective Actions II. This School choice is offered the following school year.

Beginning 2003-04, no later than 120 days after a school has been identified for Corrective Actions II, an LEA shall notify parents of their School Choice options for the following school year.

Transfers shall not be made to any school undergoing Corrective Actions Level II or Level III.

Upon parental request, districts shall transfer the child to the nearest acceptable school.

If no academically acceptable school in the district is available, the student may transfer to a neighboring district. Parents shall provide the transportation to the school. State dollars shall follow the child when such a transfer occurs.

Schools and districts may refuse to accept a student if there is insufficient space, if a desegregation order prevents such a transfer, or if the student has been subjected to disciplinary actions for behavioral problems.

An LEA must develop a policy for student transfers (School Choice Policy) for schools in Corrective Actions II and III. An LEA shall state its capacity for offering student transfers. The SBESE shall approve or disapprove an LEA's School Choice Policy.

An LEA shall declare *Lack of Capacity* when all of the attendance zones under its jurisdiction are unable to provide school choice to eligible students (i.e., desegregation order).

An LEA shall declare *Limited Capacity* when some students in some or all of the attendance zones under its jurisdiction may be provided school choice in an attendance zone (i.e., limited seating capacity in receiving schools).

An LEA declaring *Lack or Limited Capacity* shall request a waiver from the SBESE and shall submit the following with its waiver request:

- a description of the general transfer policy or desegregation order (See State's *Guidance on LEAs' Development of School Choice Policies for Public Schools in Louisiana*. Transfer policies must include:
 - 1) a method for determining transfer capacity or evidence of lack of capacity to transfer;
 - 2) transfer options for as many eligible students as possible in the Academically Unacceptable schools in Corrective Actions II or III to other Academically Acceptable schools;
 - 3) equal educational opportunities for all students eligible to transfer, including students with disabilities and Limited English Proficiency (LEP) and in compliance with all civil rights laws pertaining to eligible students;
 - 4) a method for selecting transfer students from the entire eligible student population in cases of *Limited Capacity* (i.e., lottery);
 - 5) a method for communicating to parents the option and wherewithal of School Choice;
 - 6) a method for maintaining a file for all communication involving all interested parties in School Choice;
 - 7) A method for providing transportation for transfer students; and
 - 8) A method for transferring student records, including assessment results and their interpretations.

If the SBESE determines that an LEA has demonstrated sufficient evidence of lack of or limited capacity to transfer, then the requesting LEA must submit the following information for the SBESE's approval:

- a description of the School/District Plan for those schools having to offer School Choice that addresses the following:
 - 1) Educator Quality
 - Principal Certification/Qualifications
 - Principal Leadership and Effectiveness
 - Teacher Qualifications/Certification
 - 2) Professional Development
 - To address teacher professional learning based on student data
 - To address uncertified/inexperienced teacher professional learning if certified/experienced teachers are unavailable for placement in the school
 - 3) Alignment of Curriculum, Instruction and Assessment with State Content Standards;
 - 4) Teacher/Pupil Ratio;
 - 5) Early Intervention/Remediation Programs;
 - 6) Time on Task/Extended Learning Opportunities;
 - 7) Parental Involvement; and
 - 8) Discipline/Safety/Health Issues;
 - 9) Renovation/Capital Improvement.

If the SBESE approves an LEA's School Choice Policy, the LEA must comply with the following conditions:

- 1) The LEA must submit a quarterly status report to the SBESE regarding the implementation and progress of the district's School Choice policy.
- 2) The LEA's School Choice Policy will be reviewed, re-evaluated, and subject to amendment or revision annually, all at the discretion of the SBESE.
- 3) The LEA must formally approve (and provide to the SBESE written proof thereof) the following:
 - a. the implementation of the School Choice Policy submitted to the SBESE; and
 - b. the assurance that as a part of its approval of the School Choice Policy the Superintendent (or interim Superintendent), or his/her designee, shall be the sole decision maker with regard to the assignment, removal, or replacement of all personnel involved, directly or indirectly, in the administration and implementation of the School Choice policy including personnel in the central office and relevant schools covered by the plan.
- 4) In the event that the LEA uses preliminary data supplied by the LDE or testing contractor and determines in good faith that a school is not required by state or federal law to provide choice to students, but final School Performance Scores (as determined by the LDE) would require the school provide choice, the LEA shall provide choice (in accordance with the provisions of the approved School Choice Plan) at the end of the school year in which the final SPS are determined by the LDE.

If the SBESE fails to approve an LEA's School Choice Plan, the implicated schools will lose their School Approval status.

Progress Report

2.006.12 The SBESE shall report annually on the State's progress in reaching its 10- and 20-Year Goals. The Louisiana Department of Education shall publish individual school reports to provide information on every school's performance. The school reports shall include the following information: School Performance Scores and school progress in reaching Growth Targets. Beginning fall 2002,

the LDE shall report subgroup performance to schools for the following subgroups: Poverty, Special Education, Ethnicity (White, Black, Hispanic, Asian/Pacific Islander, American Indian/Alaskan Native), and Limited English Proficient (LEP).

Weegie Peabody
Executive Director

0303#015

RULE

Board of Elementary and Secondary Education

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

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). Act 478 of the 1997 Regular Legislative Session called for the development of an Accountability System for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The State's Accountability System is an evolving system with different components. The changes more clearly explain and refine the existing policy as it pertains to the appeals and waiver process and the inclusion of new schools and/or significantly reconfigured schools in the accountability system.

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 LR 28:269, 272 (February 2002), LR 28:991, (May 2002), LR 28:1187 (June 2002), LR 29:299 (March 2003).

* * *

**The Louisiana School and District
 Accountability System
 School Performance Scores**

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

New schools with one year of test data shall be included in accountability. For attendance and dropout data, LEA's shall have the option of using

- the district average for schools in the same category as the new school
- data from the prior year, if whole grade levels from an existing school or schools moved to the new school.

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

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

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

Formula for Calculating an SPS [K-6]			
The SPS for a sample school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example, [(66.0 * 60%) + (75.0 * 30%) + (50.0 * 10%)] = 67.1			
<i>Indicator</i>	<i>Index Value</i>	<i>Weight</i>	<i>Indicator Score</i>
CRT	66.0	60%	39.6
NRT	75.0	30%	22.5
Attendance	50.0	10%	5.0
Dropout	N/A	0%	0
			SPS = 67.1

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

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

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

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

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

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

Transition Years [K-8]

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

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

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

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

NRT Goals and Equivalent Standard Scores

Composite Standard Scores Equivalent to Louisiana's 10- and 20-Year goals, by Grade Level *

Grade					
Goals	Percentile Rank	3	5	6	7
10-Year Goal	55th	187	219	231	243
20-Year Goal	75th	199	236	251	266

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

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

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

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

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

Attendance Index Calculations [K-8]

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

Attendance Goals

	10-Year Goal	20-Year Goal
Grades K-8	95%	98%
Attendance Index Formula		
Grades K-8 Indicator (ATT K-8) = (16.667 * ATT) - 1483.4		
Where ATT is the attendance percentage, the Index Formula uses the definition of attendance established by the Louisiana Department of Education.		

Lowest Attendance Index Score

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

Dropout Index Calculations

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

Dropout Goals

	10-Year Goal	20-Year Goal
Grades 7 & 8	4%	2%

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

Dropout Index Formulas

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

Lowest Dropout Index Score

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

School Performance Scores for 9-12

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

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

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

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

Transition Years [Combination Schools]	
Combination Schools are schools that contain a 10th and/or 11th grade and that also contain a 4th and/or 8th grade.	
To accommodate the phase-in of Social Studies and Science components of the CRT tests for Secondary Accountability Cycles, the Department shall use the following LEAP Test components when calculating the SPS for combination schools.	
Cycle 1 Baseline SPS for Combination Schools	Cycle 2 SPS for Combination Schools
K-8 portion of school: 2 years averaged (2000 and 2001) of all CRT data	K-8 portion of school: 2 years averaged (2002 and 2003) of all CRT data.
9-12 portion of school: 1 year baseline data (2001) without grade 11 CRT	9-12 portion of school: 2 years averaged (2002 and 2003) of all CRT data.

Formula for Calculating an SPS – Accountability Cycle 1 (2001) for 9-12 and Combination Schools.			
During the first accountability cycle, the SPS for a sample school shall be calculated by multiplying the index values for each indicator by the weight given to the indicator and adding the total scores. The formula is			
$\text{SPS} = (.60 * \text{Grade 10 CRT Adjusted Achievement Index}) + (.30 * \text{NRT Adjusted Achievement Index}) + (.05 * \text{Dropout Index}) + (.05 * \text{Attendance Index})$			
All intermediate results and the final result shall be rounded to the nearest tenth.			
The following is an example of how this calculation shall be made: $[(.60 * 66.0) + (.30 * 75.0) + (.05 * 50.0) + (.05 * 87.5)] = 69.0.$			
Indicator	Index Value	Weight	Indicator Score
CRT—Grade 10	66.0	60%	39.6
NRT	75.0	30%	22.5
Attendance Index	50.0	5%	2.5
Dropout Index	87.5	5%	4.4
SPS			69.0
Formula for Calculating an SPS – Accountability Cycle 2 (2003 and beyond) for 9-12 and Combination Schools.			
During the second accountability cycle, the SPS for a sample school shall be calculated by multiplying the index values for each indicator by the weight given to the indicator and adding the total scores. The formula is			
$\text{SPS} = (.30 * \text{Grade 10 CRT Adjusted Achievement Index}) + (.30 * \text{Grade 11 CRT Adjusted Achievement Index}) + (.30 * \text{NRT Index}) + (.05 * \text{Dropout Index}) + (.05 * \text{Attendance Index})$			
In this example, $[(.30 * 66.0) + (.30 * 60.0) + (.30 * 75.0) + (.05 * 50.0) + (.05 * 87.5)] = 67.2.$			
Indicator	Index Value	Weight	Indicator Score
CRT—Grade 10	66.0	30%	19.8
CRT—Grade 11	60.0	30%	18.0
NRT	75.0	30%	22.5
Attendance Index	50.0	5%	2.5
Dropout Index	87.5	5%	4.4
SPS			67.2

Norm-Referenced Tests (NRT) Index Calculations [9-12]		
For the NRT Index, standard scores shall be used for computing the SPS. Index scores for each student shall be calculated, scores totaled, and then averaged together to get a high school's NRT Index score.		
NRT Goals and Equivalent Standard Scores for Grade 9		
Goal	Percentile Rank	Grade 9 Composite Standard Score
10-Year Goal	55th	263
20-Year Goal	75th	287

NRT Formulas Relating Student Standard Scores to NRT Index [9-12]	
If the 10-Year and 20-Year Goals are the 55th and 75th percentile ranks respectively and if the SS = a student's standard score, the index for a grade 9 student is calculated as follows: $\text{Index 9th grade} = (2.083 * \text{SS}) - 447.8$ $\text{SS} = (\text{Index 9th grade} + 447.8) / 2.083$	

<p>Option II students: those students failing the 8th grade LEAP 21 that have been</p> <ul style="list-style-type: none"> retained and placed on the high school campus must take the 9th grade NRT and must retake only the part of the 8th grade LEAP 21 they originally failed (English language arts or mathematics). <p>If, during spring testing, a student receives a score of Approaching Basic (Approaching the Standard) or above on a LEAP 21 test of mathematics or English language arts for which he/she received a score of Unsatisfactory the previous spring, the high school shall receive incentive points in its accountability index. For the 2000-2001 school year, a student may earn a maximum of 100 incentive points in his/her school's accountability index. Beginning cycle 2 (2001-2002), a student may earn a maximum of 50 incentive points for his/her school. (See High Stakes Testing Policy.)</p>

<p>Only with the exception of grade 8 Option II students, all Louisiana students in grades three through eleven will participate in only one of the following state assessments on an annual basis:</p> <ul style="list-style-type: none"> LEAP 21 or, GEE 21 or, Iowa On-Level or, LEAP Alternate Assessment B (LAA-B) or, LEAP Alternate Assessment (LAA)
--

Criterion-Referenced Tests (CRT) Index Calculations [9-12]	
A high school's CRT Index score at each grade equals the sum of the eligible student totals divided by the number of students eligible to participate in state assessments. For the CRT Index, each student who scores within one of the following five levels shall receive the number of points indicated.	
Advanced	200 points
Mastery (Exceeding the Standard)	150 points
Basic (Meeting the Standard)	100 points
Approaching Basic (Approaching the Standard)	50 points
Unsatisfactory	0 points

<p>Formula for Calculating the NRT and CRT Adjusted Achievement Index for a High School</p> <ol style="list-style-type: none"> Sum the number of points earned by all students. For the NRT, there shall be one score for each student: the NRT Index calculated from the student's composite standard score. For the CRT, students shall be taking two tests at each grade. Divide by the total number of students eligible to be tested times the number of content area tests. This calculation provides the raw achievement index for the grade. Multiply the raw index by the product of the non-dropout rates from the previous year for that grade and for all the previous grades. (See examples below.) This operation means that the grade 9 NRT Index shall be multiplied by the grade 9 non-dropout rate, the grade 10 CRT Index shall be multiplied by the grade 9 and grade 10 non-dropout rates, and the grade 11 CRT Index shall be multiplied by the grade 9, grade 10 and grade 11 non-dropout rates. This operation shall yield the Adjusted Achievement Index. Zero shall be the lowest NRT or CRT Adjusted Achievement Index score reported for accountability calculations. <p>The formula for calculating the NRT and CRT Adjusted Achievement Index for a High School is: $\text{NRT Adjusted Achievement Index} = \text{Raw Achievement Index} * (1 - \text{DO Gr 9} + .07)$ $\text{CRT Adjusted Achievement Index (Gr 10)} = \text{Raw Achievement Index} * (1 - \text{DO Gr 9} + .07) * (1 - \text{DO Gr 10} + .07)$ $\text{CRT Adjusted Achievement Index (Gr 11)} = \text{Raw Achievement Index} * (1 - \text{DO Gr 9} + .07) * (1 - \text{DO Gr 10} + .07) * (1 - \text{DO Gr 11} + .07)$</p> <p>Example 1 - Grade 9:</p> <ul style="list-style-type: none"> Before beginning grade 9, a class has 50 students; by the end of September, 45 remain in the class. The grade 9 dropout rate is $(5/50) = .100.$ The number of points earned on the NRT is 5000. The raw achievement index is $5000/45 = 111.1.$ The adjusted achievement index is $111.1 * (1 - .100 + .07) = 107.8.$
--

Example 2 - Grade 10:

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

Attendance Index Calculations for Grades 9-12
 An Attendance Index score for each high school shall be calculated. The initial year's index shall be calculated from the prior year's attendance rates. Subsequent years' indexes shall be calculated using the prior two years' average attendance rates as compared to the State's goals.

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

Attendance Index Formula for Grades 9-12
 If the 10-Year and 20-Year Goals are 93% and 96% average attendance respectively and if the ATT = attendance percentage using the definition of attendance established by the Department of Education, the attendance index is calculated as follows:

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

Example:

- If the average attendance percentage is 94.3%, the Attendance Index would be $(16.667 * 94.3) - 1450.0 = 121.7$.

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

Dropout Index Calculations for Grades 9-12
 A Dropout Index score for each high school shall be calculated. The initial year's index shall be calculated from the prior year's dropout rates. Subsequent years' indexes shall be calculated using the prior two years' average dropout rates as compared to the State's goals.

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

Dropout Index Formula for Grades 9-12

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

Example:

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

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

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

Appeals Procedures

2.006.13 An appeal/waiver procedure has been authorized by the State Board of Elementary and Secondary Education (SBESE) and shall be used to address unforeseen and aberrant factors impacting schools in Louisiana.

The Department shall review appeal/waiver requests and make recommendations to the SBESE within sixty days, beginning the last day of the appeals/waiver filing period. Within this interval, the Department shall notify LEAs of its recommendations and allow them to respond in writing. The Department's recommendations and LEA responses will be forwarded to SBESE for final disposition.

An *appeal* is generally defined as a request for the calculation or recalculation of the School Performance Score (SPS), and/or SPS baseline and Growth Target.

A *waiver* is generally defined as a temporary "withholding" of accountability decisions for no more than one accountability cycle. Waivers shall be denied to aggrieved parties attempting to subvert the intent of provisions outlined in the state statute.

General Guidelines: Parent/School-Level Requests

Parents or individual schools seeking an appeal or waiver on issues relating to Louisiana's District and School Accountability System shall file their requests, regardless of the type, through the Superintendent, or appointed representative as authorized by the local governing board of education.

General Guidelines: Local Board of Education-Level Requests

The Superintendent or official representative of each local governing board of education shall complete the LDE's Appeals/Waivers Request Form and provide supporting documentation to the Division of School Standards, Accountability, and Assistance no later than 30 calendar days after the official release of the School Performance Scores in the fall of each year.

Data corrections shall be grounds for an appeal or waiver request when (a) evidence attributes data errors to the LDE and/or those contractors used for the student assessment program, and/or (b) evidence attributes errors to the LEA and corrections result in a change in Rewards or Corrective Actions status. Requests concerning either the inclusion or exclusion of special education student scores in the calculations of a school's SPS and Growth Target, except as outlined in *Bulletin 741*, shall not be considered by the LDE.

Supporting documentation for appeal/waiver requests should clearly outline those data that are erroneous. Further, computations by the local board of education's officials should provide evidence that the school's SPS is significantly affected by the data in question and that corrections impact Rewards, or Corrective Actions status. The local school system shall be responsible for supplying the LDE with information necessary for recalculating a school's SPS, per LDE instructions.

Criteria for Appeal

LEA superintendents shall notify the LDE in writing of any changes to existing school configurations, changes to Option status for Alternative schools or pair/share status during the LDE Accountability Status Verification process **prior to** the calculation of the School Performance Scores. Fall SPS calculations shall be made using the information provided to the LDE in the following instances.

1. The student population in a school significantly increases by greater than or equal to ten percent as a result of students transferring into the school from outside of the district (Ref. 2.006.14).
2. An Alternative School changes its Option status by meeting the eligibility requirements outlined in *Bulletin 741*, Section 1.006.14.
3. A school's (inclusive of those paired or shared) enrollment has significantly changed by fifty percent or more from the previous academic year as a result of redistricting by the local governing board or education (Ref. 2.006.15).

The LDE shall provide a report to SBESE of all configuration, pair/share, or Alternative Option status changes.

If an LEA does not submit changes to school status to the LDE during the Accountability Status Verification process, the LEA may petition SBESE during the Appeals timeframe, after the SPS release. LEAs may petition SBESE in instances not addressed by policy or in instances when the policy is unclear.

An LEA shall inform the LDE during the Accountability Status Verification process (Ref. 2.006.13) of schools within the district that have been closed. An appeal shall be filed by the LEA to receive monetary rewards for any eligible closed school.

Criteria for Waiver

1. The recalculated SPS baseline of a school changes by five points (+/-5) as a result of a significant change of ten percent or more in the student population because of students transferring into the school from outside of the district (Ref. 2.006.14).
2. Factors beyond the reasonable control of the local governing board of education and also beyond the reasonable control of the school exist.
3. A school lacks the statistically significant number of testing units for the CRT (80 units) and NRT (20 units) necessary to calculate the SPS and has no systematic "feeding" pattern into another school by which data could be "shared" (Ref. 2.006.15) because the school is
 - a Lab School;
 - a Type 1, 2, or 3 Charter School;
 - operated by the Department of Corrections; or
 - beyond the sovereign borders of Louisiana;
 - an SSD #1 or #2 school;
 - a SBESE school;
 - non-diploma bound school.
4. The student body of the school (Pre-K through K-2) comprises primarily Pre-K and K students (greater than fifty percent of the total student membership) and has no systematic "feeding" pattern into another school or schools by which it could be "paired" (Ref. 2.006.15). A feeding pattern is defined as the plan used by local governing boards of education to transfer students from one school to another for educational services as a result of pupil progression into higher grades.

**New Schools and/or Significantly
Reconfigured Schools**

2.006.16 For a newly formed school, the school district shall register the new school with the Louisiana Department of Education to have a site code assigned to that school. A

new school shall not be created nor shall a new site code be issued in order to prevent a school from entering the Accountability System. Before a new school is created, the Local Education Authority must work with the Louisiana Department of Education to explore ways the new school can be included in the Accountability System.

When two or more schools are created from an existing school (e.g., Grades 4-6 "split" from an existing K-6 structure, creating a K-3 school and a 4-6 school), the existing site code stays with the school that contributed most to the original SPS (as determined by the LDE), and the "new" school shall receive a new site code.
New schools with one year of test data shall be included in accountability. For attendance and dropout data, LEA's will have the option of using (a) the district average for schools in the same category as the new school or (b) data from the prior year, if whole grade levels from an existing school or schools moved to the new school.

Reconfigured Schools

- A reconfigured school shall retain its rewards and/or Corrective Actions status if 50% or more of the students remain at the school;
- A reconfigured school shall transfer its rewards and/or Corrective Actions status if 50% or more of the students transfer to another school;

Weegie Peabody
Executive Director

0303#016

RULE

Board of Elementary and Secondary Education

Bulletin 1965C English Language Arts Content Standards
(LAC 28:LXIII.Chapters 1-7)

Editor's Note: Bulletin 1965 has been moved to Part LXIII of Title 28 and is printed in its entirety to show the new codification.

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revision of Bulletin 1965, *Louisiana English Language Arts Content Standards*, referenced in LAC 28:1.930.E, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The *Louisiana English Language Arts Content Standards* will be disseminated to local school districts following publication. Implementation of the changes to the wording in the standards and benchmarks clarify and strengthen the standards and benchmarks used to guide curriculum development. The revisions to the *Louisiana English Language Arts Content Standards* strengthen the content and add clarity to the document without affecting the integrity of the assessment instruments.

**Title 28
EDUCATION**

**Part LXIII. English Language Arts Content Standards
Chapter 1. Standard One**

§101. General Provisions

A. Standard One. Students read, comprehend, and respond to a range of materials, using a variety of strategies for different purposes.

B. Focus. As students move through the stages of reading development from emergent literacy to fluent, strategic reading, they learn to draw upon their prior experiences, their interactions with other readers and writers, their knowledge of word meaning and of other texts, their

word identification strategies, and their understanding of textual features (e.g., semantic, syntactic, graphophonic). Students need to learn how to vary their approaches according to the type of text (e.g., written, spoken, or visual, including formal, informal, literary, and practical), their purpose in reading, and their own knowledge and experiences. Therefore, students should read for a variety of purposes and within a variety of contexts in order to become proficient and knowledgeable readers. Discovering various purposes and exploring and studying different kinds of texts will enable students to become lifelong readers and productive members of society and the workplace.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003).

§103. Benchmarks K-4

A. In Grades K-4, what students know and are able to do includes the following.

1. ELA-1-E1C Gaining meaning from print and building vocabulary using a full range of strategies (e.g., self-monitoring and correcting, searching, cross-checking), evidenced by reading behaviors while using phonemic awareness, phonics, sentence structure, meaning (1, 4)

2. ELA-1-E2C Using the conventions of print (e.g., left-to-right directionality, top-to-bottom, one-to-one matching, sentence framing) (1, 4)

3. ELA-1-E3C Adjusting speed of reading (e.g., appropriate pacing, intonation, expression) to suit the difficulty of materials and the purpose for reading (e.g., enjoying, learning, problem solving) (1, 4)

4. ELA-1-E4C Recognizing story elements (e.g., setting, plot, character, theme) and literary devices (e.g., simile, dialogue, personification) within a selection (1,4)

5. ELA-1-E5C Reading, comprehending, and responding to written, spoken, and visual texts in extended passages (e.g., range for fiction passages 450-1,000 words; range for nonfiction-450-850 words) (1, 3, 4)

6. ELA-1-E6C Interpreting (e.g., retelling, summarizing) texts to generate connections to real-life situations (1, 2, 4)

7. ELA-1-E7C Reading with fluency (natural sequencing of words) for various purposes (e.g., enjoying, learning, problem solving) (1, 2, 4)

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003).

§105. Benchmarks 5-8

A. As students in Grades 5-8 extend their knowledge, what they know and are able to do includes the following.

1. ELA-1-M1C Using knowledge of word meaning and developing basic and technical vocabulary using various strategies (e.g., context clues, idioms, affixes, etymology, multiple-meaning words) (1, 4)

2. ELA-1-M2C Interpreting story elements (e.g., mood, tone, style)* and literary devices (e.g., flashback, metaphor, foreshadowing, symbolism)* within a selection (1, 4)

3. ELA-1-M3C Reading, comprehending, and responding to written, spoken, and visual texts in extended passages (e.g., ranging from 500-1,000 words) (1, 3, 4)

4. ELA-1-M4C Interpreting (e.g., paraphrasing, comparing, contrasting) texts with supportive explanations to generate connections to real-life situations and other texts (e.g., business, technical, scientific) (1, 2, 4, 5)

5. ELA-1-M5C Adjusting reading rate according to texts and purposes for reading (e.g., problem solving, evaluating, researching)* (1, 2, 4, 5)

* Inclusive of K-4 examples

** Inclusive of K-8 examples

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:307 (March 2003).

§107. Benchmarks 9-12

A. As students in Grades 9-12 extend and refine their knowledge, what they know and are able to do includes the following.

1. ELA-1-H1C Using knowledge of word meaning and extending basic and technical vocabulary, employing a variety of strategies (e.g., contexts, connotations and denotations, word derivations, relationships, inferences) (1, 4)

2. ELA-1-H2C Analyzing and evaluating the effects of complex elements and complex literary devices (e.g., irony, sarcasm, ambiguity)** on the meaning and purpose of a selection (1, 2, 4)

3. ELA-1-H3C Reading, comprehending, and responding to extended, complex, written, spoken, and visual texts (e.g., ranging from 600-1,500 words) (1, 2, 3, 4)

4. ELA-1-H4C Analyzing and evaluating complex texts with supportive explanations to generate connections to real-life situations and other texts (e.g., consumer materials, public documents) (1, 2, 4, 5)

5. ELA-1-H5C Adjusting reading rate according to texts and purposes for reading (e.g., analyzing, synthesizing, evaluating)** (1, 2, 4)

* Inclusive of K-4 examples

** Inclusive of K-8 examples

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:307 (March 2003).

Chapter 2. Standard Two

§201. General Provisions

A. Standard Two. Students write competently for a variety of purposes and audiences.

B. Focus. Writing is a flexible, recursive process that requires an awareness of purpose and audience, an ability to draw on prior experience, and a knowledge of various approaches. To attain the necessary skills to create written text, students should engage in frequent, meaningful writing activities. As students use different strategies and modify their writing for various purposes and audiences, they become competent in communicating in real-life situations.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:307 (March 2003).

§203. Benchmarks K-4

A. In Grades K-4, what students know and are able to do includes the following.

1. ELA-2-E1C Drawing, dictating and writing compositions that clearly state or imply a central idea with supporting details in a logical, sequential order (beginning, middle, end) (1, 4)

2. ELA-2-E2C Focusing on language (vocabulary), concepts, and ideas that show an awareness of the intended audience and/or purpose (e.g., classroom, real-life, workplace) in developing compositions (1, 2, 4)

3. ELA-2-E3C Creating written texts using the writing process (1, 4)

4. ELA-2-E4C Using narration, description, exposition, and persuasion to develop compositions (e.g., stories, letters, poems, logs) (1, 4)

5. ELA-2-E5C Recognizing and applying literary devices (e.g., figurative language) (1, 4)

6. ELA-2-E6C Writing as a response to texts and life experiences (e.g., journals, letters, lists) (1, 2, 4)

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:307 (March 2003).

§205. Benchmarks 5-8

A. As students in Grades 5-8 extend their knowledge, what they know and are able to do includes the following.

1. ELA-2-M1C Writing multiparagraph compositions (150-200 words) that clearly imply a central idea with supporting details in a logical, sequential order (1, 4)

2. ELA-2-M2C Using language, concepts, and ideas that show an awareness of intended audience and/or purpose (e.g., classroom, real-life, workplace) in developing complex compositions (1, 2, 4)

3. ELA-2-M3C Identifying and applying the steps of the writing process (1, 4)

4. ELA-2-M4 Using narration, description, exposition, and persuasion to develop various modes of writing (e.g., notes, essays)* (1, 4)

5. ELA-2-M5C Identifying and applying literary devices (e.g., symbolism, dialogue)* (1, 4)

6. ELA-2-M6C Writing as a response to texts and life experiences (e.g., personal and business letters)* (1, 2, 4)

* Inclusive of K-4 examples

** Inclusive of K-8 examples

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:307 (March 2003).

§207. Benchmarks 9-12

A. As students in Grades 9-12 extend and refine their knowledge, what they know and are able to do includes the following.

1. ELA-2-H1C Writing compositions (250-300 words) that employ specific organizational elements (e.g., spatial order, order of importance, ascending/descending order, chronological order) and clearly imply a central idea with supporting details in a logical, sequential order (1, 4)

2. ELA-2-H2C Using language, concepts, and ideas that show an awareness of the intended audience and/or purpose (e.g., classroom, real-life, workplace) in developing complex compositions (1, 2, 4)

3. ELA-2-H3C Applying the steps of the writing process, emphasizing revising and editing in final drafts (1, 4)

4. ELA-2-H4C Using narration, description, exposition, and persuasion to develop various modes of writing (e.g., editorials, critical analyses)** (1, 4)

5. ELA-2-H5C Applying literary devices And various stylistic elements (e.g., diction, sentence structure, voice, tone)** (1, 4)

6. ELA-2-H6C Writing as a response to texts and life experiences (e.g., technical writing, resumes)** (1, 2, 4, 5)

* Inclusive of K-4 examples

** Inclusive of K-8 examples

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:308 (March 2003).

Chapter 3. Standard Three

§301. General Provisions

A. Standard Three. Students communicate using standard English grammar, usage, sentence structure, punctuation, capitalization, spelling, and handwriting.

B. Focus. Communication is dependent on the practical application of standard English to real-life situations. Students need to be able to apply the knowledge of the systems and structures of standard English in order to develop, discuss, and critique various texts. When students connect the study of grammar and language patterns to written, spoken, and visual compositions, they begin to incorporate these skills into their own working knowledge and ensure that the texts that they create are well received and understood.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:308 (March 2003).

§303. Benchmarks K-4

A. In Grades K-4, what students know and are able to do includes the following.

1. ELA-3-E1C Writing legibly, allowing margins and correct spacing between letters in a word and words in a sentence (1, 4)

2. ELA-3-E2C Demonstrating use of punctuation (e.g., comma, apostrophe, period, question mark, exclamation mark), capitalization, and abbreviations in final drafts of writing assignments (1, 4)

3. ELA-3-E3C Demonstrating standard English structure and usage by writing clear, coherent sentences (1, 4)

4. ELA-3-E4C Using knowledge of the parts of speech to make choices for writing (1, 4)

5. ELA-3-E5C Spelling accurately using strategies (e.g., letter-sound correspondence, hearing and recording sounds in sequence, spelling patterns, pronunciation) and resources (e.g., glossary, dictionary) when necessary (1, 4)

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:308 (March 2003).

§305. Benchmarks 5-8

A. As students in Grades 5-8 extend their knowledge, what they know and are able to do includes the following.

1. ELA-3-M1C Writing fluidly and legibly in cursive or printed form (1, 4)

2. ELA-3-M2C Demonstrating use of punctuation (e.g., colon, semicolon, quotation marks, dashes, parentheses), capitalization, and abbreviations (1, 4)

3. ELA-3-M3C Demonstrating standard English structure and usage by using correct and varied sentence types (e.g., compound and compound-complex) and effective personal styles (1, 4, 5)

4. ELA-3-M4C Demonstrating understanding of the parts of speech to make choices for writing (1, 4)

5. ELA-3-M5C Spelling accurately using strategies and resources (e.g., glossary, dictionary, thesaurus, spell check) when necessary (1, 3, 4)

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:308 (March 2003).

§307. Benchmarks 9-12

A. As students in Grades 9-12 extend and refine their knowledge, what they know and are able to do includes the following.

1. ELA-3-H1C writing fluidly and legibly in cursive or printed form (1, 4)

2. ELA-3-H2C Using the grammatical and mechanical conventions of standard English (1, 4, 5)

3. ELA-3-H3C Spelling accurately using strategies and resources (e.g., technical glossary, specialized dictionary) when necessary (1, 3, 4)

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:308 (March 2003).

Chapter 4. Standard Four

§401. General Provisions

A. Standard Four. Students demonstrate competence in speaking and listening as tools for learning and communicating.

B. Focus. Communication is dependent on the interpersonal skills of speaking and listening and on the ability to work collaboratively with different people. Since information can be conveyed in various ways (e.g., between persons or groups, between persons and technological mechanisms, or between mechanisms), students need to understand the communication process: the concepts of

sender and receiver, the ability to track communication breakdowns, recognition of verbal and nonverbal cues, and the art of follow-through. Understanding the communication process and applying this understanding to different audiences, purposes, and contexts will enable students to achieve effective communication in real-life situations.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:308 (March 2003).

§403. Benchmarks K-4

A. In Grades K-4, what students know and are able to do includes the following.

1. ELA-4-E1C Speaking intelligibly, using standard English pronunciation (1, 4)

2. ELA-4-E2C Giving and following directions/procedures (1, 4)

3. ELA-4-E3C Telling or retelling stories in sequence (1, 4)

4. ELA-4-E4C Giving rehearsed and unrehearsed presentations (1, 4)

5. ELA-4-E5C Speaking and listening for a variety of audiences (e.g., classroom, real-life, workplace) and purposes (e.g., awareness, concentration, enjoyment, information, problem solving) (1, 2, 4, 5)

6. ELA-4-E6C Listening and responding to a wide variety of media (e.g., music, TV, film, speech) (1, 3, 4, 5)

7. ELA-4-E7C Participating in a variety of roles in group discussions (e.g., active listener, contributor, discussion leader) (1, 4, 5)

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:309 (March 2003).

§405. Benchmarks 5-8

A. As students in Grades 5-8 extend their knowledge, what they know and are able to do includes the following.

1. ELA-4-M1C Speaking intelligibly, using standard English pronunciation and diction (1, 4)

2. ELA-4-M2C Giving and following directions/procedures (1, 4)

3. ELA-4-M3C Using the features of speaking (e.g., audience analysis, message construction, delivery, interpretation of feedback) when giving rehearsed and unrehearsed presentations (1, 2, 4)

4. ELA-5-M4C Speaking and listening for a variety of audiences (e.g., classroom, real-life, workplace) and purposes (e.g., awareness, concentration, enjoyment, information, problem solving) (1, 2, 4, 5)

5. ELA-4-M5C Listening and responding to a wide variety of media* (1, 3, 4, 5)

6. ELA-4-M6C Participating in a variety of roles in group discussions (e.g., facilitator, recorder)* (1, 4, 5)

* Inclusive of K-4 examples

** inclusive of K-8 examples

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:309 (March 2003).

§407. Benchmarks 9-12

A. As students in Grades 9-12 extend and refine their knowledge, what they know and are able to do includes the following.

1. ELA-4-H1C Speaking intelligibly, using standard English pronunciation and diction (1, 4)

2. ELA-4-H2C Giving and following directions/procedures (1, 4)

3. ELA-4-H3C Using the features of speaking (e.g., audience analysis, message construction, delivery, interpretation of feedback) when giving prepared and impromptu presentations (1, 2, 4)

4. ELA-4-H4C Speaking and listening for a variety of audiences (e.g., classroom, real-life, workplace) and purposes (e.g., awareness, concentration, enjoyment, information, problem solving) (1, 2, 4, 5)

5. ELA-4-H5C Listening and responding to a wide variety of media (e.g., CD-ROM)** (1, 3, 4)

6. ELA-4-H6C Participating in a variety of roles in group discussion (e.g., mediator)** (1, 4, 5)

* Inclusive of K-4 examples

** Inclusive of K-8 examples

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:309 (March 2003).

Chapter 5. Standard Five

§501. General Provisions

A. Standard Five. Students locate, select, and synthesize information from a variety of texts, media, references, and technological sources to acquire and communicate knowledge.

B. Focus. The information and technology age demands multifaceted approaches to accessing facts, images, and text from an array of information sources (e.g., libraries, electronic data, audio and video materials). The vast amount of available sources includes the reading and retrieval of information through the use of technology. The ability to identify topics, to gather information, and to evaluate, assemble, and interpret findings from an assortment of sources is one of the most essential real-life skills that students need in order to acquire and communicate knowledge in a rapidly changing world.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:309 (March 2003).

§503. Benchmarks K-4

A. In Grades K-4, what students know and are able to do includes the following.

1. ELA-5-E1C Recognizing and using organizational features of printed text, other media, and electronic information (e.g., parts of a text, alphabetizing, captions, legends, pull-down menus, keyword searches, icons, passwords, entry menu features) (1, 3, 4)

2. ELA-5-E2C Locating and evaluating information sources (e.g., print materials, databases, CD-ROM references, Internet information, electronic reference works, community and government data, television and radio resources, audio and visual materials) (1, 3, 4, 5)

3. ELA-5-E3C Locating, gathering, and selecting information using graphic organizers, simple outlining, note taking, and summarizing to produce texts and graphics (1, 3, 4)

4. ELA-5-E4C Using available technology to produce, revise, and publish a variety of works (e.g., book reviews, summaries, short research reports) (1, 3, 4)

5. ELA-5-E5C Giving credit for borrowed information by telling or listing sources (1, 4)

6. ELA-5-E6C Recognizing and using graphic organizers (e.g., charts/graphs, tables/schedules, diagrams/maps) (1, 2, 3, 4, 5)

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:309 (March 2003).

§505. Benchmarks 5-8

A. As students in Grades 5-8 extend their knowledge, what they know and are able to do includes the following.

1. ELA-5-M1C Identifying and using organizational features of printed text, other media, and electronic information (e.g., microprint, CD-ROM, e-mail)* (1, 3, 4)

2. ELA-5-M2C Integrating information sources* (1, 3, 4, 5)

3. ELA-5-M3C Locating, gathering, and selecting information using formal outlining, paraphrasing, interviewing, and surveying to produce documented texts and graphics* (1, 3, 4)

4. ELA-5-M4C Using available technology to produce, revise, and publish a variety of works (e.g., documented research reports, investigative reports, annotated bibliographies)* (1, 3, 4)

5. ELA-5-M5C Citing references using various formats (e.g., endnotes, bibliography)* (1, 4)

6. ELA-5-M6C Identifying and interpreting graphic organizers (e.g., flowcharts, timelines, tree diagrams)* (1, 2, 3, 4, 5)

* Inclusive of K-4 examples

** Inclusive of K-8 examples

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:310 (March 2003).

§507. Benchmarks 9-12

A. As students in Grades 9-12 extend and refine their knowledge, what they know and are able to do includes the following.

1. ELA-5-H1C Evaluating and using organizational features of printed text, other media, and electronic information (e.g., citations, endnotes, bibliographic references)** (1, 3, 4)

2. ELA-5-H2C Synthesizing information sources** (1, 3, 4, 5)

3. ELA-5-H3C Accessing information and conducting research using a variety of primary and secondary sources to produce formal papers** (1, 2, 3, 4)

4. ELA-5-H4C Using available technology to produce, revise, and publish a variety of works (e.g., abstracts, analytical reports, summative research)** (1, 3, 4)

5. ELA-5-H5C Citing references using various formats (e.g., parenthetical citations, annotated bibliographies)** (1, 4)

6. ELA-5-H6C Analyzing and synthesizing graphic organizers (e.g., organizational charts, concept maps, comparative tables)** (1, 2, 3, 4, 5)

* Inclusive of K-4 examples

** Inclusive of K-8 examples

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:310 (March 2003).

Chapter 6. Chapter Six

§601. General Provisions

A. Standard Six. Students read, analyze, and respond to literature as a record of life experiences.

B. Focus. Literature is a record of life experiences as set forth in various writings (e.g., history, novels, poetry, science fiction, essays, news articles, logs). The study of literary texts recognizes characteristics of enduring literature, discovers and reviews the elements of various genres, identifies diverse perspectives, and distinguishes cultural traditions. The study of literature and writers of the United States and throughout the world gives students an appreciation of other cultures in a global society. Through a comprehensive literature program, students learn to make connections between literary texts and their own lives, to develop their own perspectives, and to analyze different viewpoints toward events, circumstances, and issues in our complex society.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:310 (March 2003).

§603. Benchmarks K-4

A. In Grades K-4, what students know and are able to do includes the following.

1. ELA-6-E1C Recognizing and responding to United States and world literature that represents the experiences and traditions of diverse ethnic groups (1, 4, 5)

2. ELA-6-E2C Recognizing and responding to a variety of classic and contemporary fiction and non-fiction literature from many genres (e.g., folktales, legends, myths, biography, autobiography, poetry, short stories) (1, 4)

3. ELA-6-E3C Identifying and distinguishing key differences of various genres (1, 2, 4, 5)

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:310 (March 2003).

§605. Benchmarks 5-8

A. As students in Grades 5-8 extend their knowledge, what they know and are able to do includes the following.

1. ELA-6-M1C Comparing/contrasting and responding to United States and world literature that represents the experiences and traditions of diverse ethnic groups (1, 4, 5)

2. ELA-6-M2C Identifying, comparing, and responding to a variety of classic and contemporary fiction and non-fiction literature from many genres (e.g., novels, drama)* (1, 2, 4, 5)

3. ELA-6-M3C Classifying and interpreting various genres according to their unique characteristics (1, 2, 4, 5)

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:310 (March 2003).

§607. Benchmarks 9-12

A. As students in grades 9-12 extend and refine their knowledge, what they know and are able to do includes the following.

1. ELA-6-H1C Analyzing, evaluating, and responding to United States and world literature that represents the experiences and traditions of diverse ethnic groups (1, 2, 4, 5)

2. ELA-6-H2C Analyzing and evaluating distinctive elements (e.g., recurrent themes, historical significance, literary techniques) of ancient, American, British, and world literature (1, 2, 4, 5)

3. ELA-6-H3C Analyzing, and synthesizing a variety of classic and contemporary fiction and non-fiction literature from many genres (e.g., epics)** (1, 2, 4, 5)

4. ELA-6-H4C Analyzing and responding to various genres as records of life experiences (1, 2, 4, 5)

* Inclusive of K-4 examples

** Inclusive of K-8 examples

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:310 (March 2003).

Chapter 7. Standard Seven

§701. General Provisions

A. Standard Seven. Students apply reasoning and problem solving skills to their reading, writing, speaking, listening, viewing, and visually representing.

B. Focus. Students use language daily to solve problems and deal with issues surrounding them. In order to respond effectively to these situations, students need to use the English Language Arts clearly, fluently, strategically, critically, technologically, and creatively. Students should use reasoning skills as they pose questions, plan, predict, investigate, hypothesize, speculate, and communicate about issues they encounter in academic subjects as well as in everyday life.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:311 (March 2003).

§703. Benchmarks K-4

A. In Grades K-4, what students know and are able to do includes the following.

1. ELA-7-E1C Using comprehension strategies (e.g., sequencing, predicting, drawing conclusions, comparing and contrasting, making inferences, determining main ideas) to interpret oral, written, and visual texts (1, 2, 4)

2. ELA-7-E2C Using basic reasoning skills, life experiences, and available information to solve problems in oral, written, and visual texts (1, 2, 4)

3. ELA-7-E3C Recognizing an author's purpose (reason for writing), and viewpoint (perspective) (1, 2, 4)

4. ELA-7-E4C Using basic reasoning skills to distinguish fact from opinion, skim and scan for facts, determine cause and effect, generate inquiry, and make connections with real-life situations (1, 2, 4, 5)

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:311 (March 2003).

§705. Benchmarks 5-8

A. As students in Grades 5-8 extend their knowledge, what students know and are able to do includes the following.

1. ELA-7-M1C Using comprehension strategies (e.g., summarizing, recognizing literary devices, paraphrasing)* to analyze oral, written, and visual texts (1, 2, 4)

2. ELA-7-M2C Using reasoning skills (e.g., categorizing, prioritizing),* life experiences, accumulated

knowledge, and relevant available information resources to solve problems in oral, written, and visual texts (1, 2, 4)

3. ELA-7-M3C Interpreting the effects of an author's purpose (reason for writing) and viewpoint (perspective) (1, 2, 4)

4. ELA-7-M4C Using inductive and deductive reasoning skills across oral, written, and visual texts* (1, 2, 4, 5)

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:311 (March 2003).

§707. Benchmarks 9-12

A. As students in Grades 9-12 extend and refine their knowledge, what they know and are able to do includes the following.

1. ELA-7-H1C Using comprehension strategies (e.g., synthesizing, critiquing)** to evaluate oral, written, and visual texts (1, 2, 4)

2. ELA-7-H2C Using reasoning skills (e.g., analyzing evaluating),** incorporating life experiences, and using available information resources to solve problems in complex oral, written, and visual texts (1, 2, 4, 5)

3. ELA-7-H3C Analyzing and evaluating the effects of an author's life, culture, and philosophical assumptions as reflected in the author's viewpoint (perspective) (1, 2, 4, 5)

4. ELA-7-H4C Using analytical reasoning skills in a variety of complex oral, written, and visual texts** (1, 2, 4, 5)

* Inclusive of K-4 examples

** Inclusive of K-8 examples

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:311 (March 2003).

Weegie Peabody
Executive Director

0303#014

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Commercial Laboratories Pending Accreditation
(LAC 33:I.4501 and 4719)(OS039)

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 amends the Office of the Secretary regulations, LAC 33:I.4501 and 4719 (Log #OS039).

As a result of deadlines established in current Louisiana regulations, the department was prohibited from accepting data from commercial laboratories that have not received departmental accreditation. This Rule will allow the department to accept data from laboratories that have submitted complete applications and supporting documents, have submitted documentation verifying certification/accreditation by a department-approved accreditation program or supporting documentation showing

the quality assurance and quality control program used to generate analytical data by the laboratory, and have paid all appropriate fees. The department is adding an exemption for personnel monitoring services and those activities specifically licensed in accordance with LAC 33:XV.Chapter 3.Subchapter B, equivalent agreement state regulations, and the Nuclear Regulatory Commission regulations, Title 10 Code of Federal Regulations, due to the fact that they are licensed under other department regulations and to prevent an additional economic burden and duplication of effort by the department. The department relies on the analytical data to determine permit compliance, enforcement issues, and effectiveness of remediation of soils and groundwater. Permit issuance and compliance are effective means of determining the impact on human health and the environment. The basis and rationale for this Rule are to establish regulations to allow the department to have access to accurate, reliable, precise analytical data in order to meet its mandate to protect human health and the environment. This Rule will promulgate the regulation changes in Emergency Rule OS039E4, which was effective on March 11, 2003.

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

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 3. Laboratory Accreditation

Chapter 45. Policy and Intent

§4501. Description and Intent of Program

A. - D. ...

E. This Subpart shall not apply to the following:

1. laboratory analyses programs accredited under the regulatory and statutory authority of the Louisiana Department of Health and Hospitals; and

2. personnel monitoring services in accordance with LAC 33:XV.430.C and to those activities specifically licensed in accordance with LAC 33:XV.Chapter 3.Subchapter B, equivalent agreement state regulations, and the Nuclear Regulatory Commission regulations, Title 10 *Code of Federal Regulations*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:917 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1434 (July 2000), LR 29:312 (March 2003).

Chapter 47. Program Requirements

§4719. Implementation

A. - B. ...

C. The department will accept analytical data generated by laboratories that do not comply with the deadlines established in Subsection B of this Section for accreditation if such laboratories:

1. have submitted a complete application form and supporting documents;

2. have submitted documentation verifying certification/accreditation by a department-approved

accreditation program or supporting documentation showing the quality assurance and quality control program used to generate analytical data by the laboratory; and

3. have paid appropriate fees.

D. These regulations shall not apply to field tests as defined in LAC 33:I.4503.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:922 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1436 (July 2000), LR 29:312 (March 2003).

James H. Brent, Ph.D.
Assistant Secretary

0303#072

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Reorganization of Solid Waste Regulations (LAC 33:VII.Chapters 151-169)(SW031)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has repealed LAC 33:VII.Subpart 3 of the solid waste regulations (Log #SW031).

This Rule repealed and replaced in its entirety all previously promulgated Solid Waste regulations cited as LAC 33:VII.Subpart 1 and repealed in its entirety LAC 33:VII.Subpart 3, Louisiana Resource Recovery and Development Authority. This action was being taken to: 1) reorganize the regulations in a more user-friendly manner; 2) correct errors in text; 3) eliminate the Louisiana Resource Recovery and Development Authority (LRRDA) in accordance with Act 524 of the 2001 Louisiana Legislative Session; 4) clarify technical requirements for all solid waste facilities; 5) incorporate into regulations geology and groundwater standards currently required by the department; 6) allow the department to establish the numbers and levels of certified operators at a facility; 7) provide more flexibility regarding characterization of subsurface geology; 8) remove language allowing operations at a proposed facility with a temporary permit; and 9) establish a basis for the phrase "environmentally sound manner." Upon further evaluation of the solid waste regulations and after review and consideration of comments received, the department has chosen to sever Subpart 1 from the proposed Rule and not promulgate it at this time. The repeal of Subpart 3, Louisiana Resource Recovery and Development Authority, is the only portion of the Rule that is being promulgated.

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

Title 33
ENVIRONMENTAL QUALITY
Part VII. Solid Waste
Subpart 3. Louisiana Resource Recovery and
Development Authority

Chapter 151. General Provisions

§15101. Name

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:501 (October 1981), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:313 (March 2003).

§15103. Legislative Authority and Governance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:502 (October 1981), amended by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 20:654 (June 1994), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:313 (March 2003).

§15105. Purposes of the Authority

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:502 (October 1981), amended by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 20:654 (June 1994), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:313 (March 2003).

§15107. Object of these Rules

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:502 (October 1981), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:313 (March 2003).

§15109. Definition

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:502 (October 1981), amended by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 20:654 (June 1994), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:313 (March 2003).

§15111. Filings with the Authority

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:502 (October 1981), amended by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 20:654 (June 1994), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:313 (March 2003).

§15113. Parliamentary Authority

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:502 (October 1981), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:313 (March 2003).

§15115. Effective Date and Duration

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:502 (October 1981), amended by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 20:654 (June 1994), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:313 (March 2003).

§15117. Public Participation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:502 (October 1981), amended by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 20:654 (June 1994), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:313 (March 2003).

Chapter 153. Membership and Organization

§15301. Authority Membership

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:502 (October 1981), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:313 (March 2003).

§15303. Term of Office

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:502 (October 1981), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:313 (March 2003).

§15305. Representatives or Designees

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:502 (October 1981), amended by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 20:655 (June 1994), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:313 (March 2003).

§15307. Compensation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:503 (October 1981), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:313 (March 2003).

§15309. Resignation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:503 (October 1981), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:313 (March 2003).

§15311. Vacancies

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:503 (October 1981), amended by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 20:655 (June 1994), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:314 (March 2003).

§15313. Officers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:503 (October 1981), amended by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 20:655 (June 1994), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:314 (March 2003).

§15315. Committees

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:503 (October 1981), amended by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 20:655 (June 1994), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:314 (March 2003).

Chapter 155. Meetings and Hearings

§15501. Quorum

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:503 (October 1981), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:314 (March 2003).

§15503. Public Meetings

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:503 (October 1981), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:314 (March 2003).

§15505. Executive Session

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:503 (October 1981), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:314 (March 2003).

§15507. Regular Meetings

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:503 (October 1981), amended by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 20:655 (June 1994), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:314 (March 2003).

§15509. Bi-Annual Meeting

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:503 (October 1981), amended by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 20:655 (June 1994), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:314 (March 2003).

§15511. Special Meetings; Fact-Finding Hearings; Other Hearings

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:503 (October 1981), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:314 (March 2003).

§15513. Notice

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:504 (October 1981), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:314 (March 2003).

§15515. Request for Authority Action

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:504 (October 1981), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:314 (March 2003).

§15517. Petitions for Hearings, Special Meetings or Action

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:504 (October 1981), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:314 (March 2003).

§15519. Action on Petition

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:504 (October 1981), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:314 (March 2003).

§15521. Continuances

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:504 (October 1981), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:314 (March 2003).

§15523. Presiding Officer

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:504 (October 1981), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:314 (March 2003).

§15525. Conduct

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:504 (October 1981), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:315 (March 2003).

§15527. Authority Minutes and Records

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:504 (October 1981), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:315 (March 2003).

Chapter 157. Promulgation and Amendment of Rules

§15701. Promulgation of Rules

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:504 (October 1981), amended by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 20:655 (June 1994), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:315 (March 2003).

§15703. Review and Amendment of Rules

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:504 (October 1981), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:315 (March 2003).

Chapter 159. Staff Functions

§15901. Purpose of Definition

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:504 (October 1981), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:315 (March 2003).

§15903. Functions Retained by the Authority

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:504 (October 1981), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:315 (March 2003).

§15905. Functions Assigned to the Staff

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:504 (October 1981), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:315 (March 2003).

Chapter 161. Operating Policies

§16101. Policy for Establishing Waste Regions and Setting Boundaries

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:505 (October 1981), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:315 (March 2003).

§16103. Policy Governing Facility Development and Setting of Priorities for Financing

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:505 (October 1981), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:315 (March 2003).

§16105. Policy Governing the Setting of Fees, Charges, and Prices for the Use of Authority Facilities and for Products and By-Products of Such Facilities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:505 (October 1981), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:315 (March 2003).

§16107. Policy Governing Planning, Design, Construction, and Operation of Authority Facilities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:505 (October 1981), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:315 (March 2003).

Chapter 163. Competitive Negotiations; Procurement of Goods and Services

§16301. Competitive Negotiations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:506 (October 1981), amended LR 8:520 (October 1982), amended by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 20:655 (June 1994), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:315 (March 2003).

§16303. Procurement of Goods and Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:506 (October 1981), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:315 (March 2003).

§16305. Procurements of Personal, Professional and Consulting Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:506 (October 1981), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:315 (March 2003).

§16307. Procurements Related to Construction of Public Works

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:506 (October 1981), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:315 (March 2003).

§16309. Confidentiality of Data

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:506 (October 1981), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:316 (March 2003).

Chapter 165. Sales of Authority Products or Property (Excluding Bonds and Notes)

§16501. Sales of Steam from Authority Facilities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:506 (October 1981), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:316 (March 2003).

§16503. Sales of Electricity from Authority

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:506 (October 1981), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:316 (March 2003).

§16505. Sale of Methane, Paper, Glass, Metals, Ash, or Other Products of Authority Facilities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:506 (October 1981), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:316 (March 2003).

§16507. Sale or Lease of Authority Property

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:506 (October 1981), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:316 (March 2003).

Chapter 167. Financing

§16701. Financing

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:506 (October 1981), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:316 (March 2003).

Chapter 169. Construction and Effect

§16901. Construction and Effect

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, LR 7:506

(October 1981), repealed by Office of Environmental Assessment, Environmental Planning Division, LR 29:316 (March 2003).

James H. Brent, Ph.D.

Assistant Secretary

0303#073

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Incorporation by Reference (IBR) of 40 CFR 60
(LAC 33:III.3003)(AQ230*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.3003 (Log #AQ230*).

This Rule is identical to federal regulations found in 40 CFR 60.2575-60.2875, (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 Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953.F.(3) and (4).

It has been brought to the department's attention, by EPA Region VI, that the contents of the department's emission guidelines for commercial and industrial solid waste incineration units do not match the contents of LAC 33:III.3003.B.6. This Rule change corrects this inadvertent error. The draft emission guidelines plan actually includes 40 CFR 60.2575 through 2875. The basis and rationale for this Rule are to amend the regulations to correctly identify the contents of the department's emission guidelines for commercial and industrial solid waste incineration units.

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

Title 33

ENVIRONMENTAL QUALITY

Part 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. - B.5. ...

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 60.2575-60.2875 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. ...

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 28:2181 (October 2002), LR 29:316 (March 2003).

James H. Brent, Ph.D.
Assistant Secretary

0303#011

RULE

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

RCRA XII Package

(LAC 33:V.105, 109, 321, 529, 535, 537, 2001, 2219, 2603, 3001, 3105, 3115, 4513, 4901, and 4903)(HW083*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste regulations, LAC 33:V.Chapters 1, 3, 5, 20, 22, 26, 30, 31, 43, and 49 (Log #HW083*).

This Rule is identical to federal regulations found in 66 FR 50332-50334, 10/3/01; 66 FR 58258-58300, 11/20/01, amended 67 FR 17119-17120, 4/9/02; 67 FR 2962-3029, 1/22/02; 67 FR 6792-6818, 2/13/02; 67 FR 6968-6996, 2/14/02; 67 FR 11251-11254, 3/13/02, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953.F.(3) and (4).

This Rule includes changes to the Hazardous Waste regulations on the following topics that are required by the Environmental Protection Agency for continued authorization of the RCRA program in the state of Louisiana: Mixture and Derived-From Revision II; Inorganic Chemical Manufacturing Wastes Identification and Listing; CAMU Amendments; Hazardous Air Pollutant Standards for Combustors: Interim Standards; Hazardous Air Pollutant Standards for Combustors: Corrections; Vacatur of Mineral Processing Spent Materials Being Reclaimed as Solid Wastes and TCLP Use with MGP Waste. The hazardous waste regulations for the state must be equivalent to those of the federal in order for the state to be authorized for the new portions of the RCRA program. The basis and rationale for this Rule are to mirror the federal regulations.

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

formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 1. General Provisions and Definitions

§105. Program Scope

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

A. - D.I.o. ...

p. spent materials (as defined in LAC 33:V.109) (other than hazardous wastes listed in LAC 33:V.Chapter 49) generated within the primary mineral processing industry from which minerals, acids, cyanide, water, or other values are recovered by mineral processing or by beneficiation, provided that:

i. the spent material is legitimately recycled to recover minerals, acids, cyanide, water, or other values;

ii. the spent material is not accumulated speculatively;

iii. except as provided in Clause D.1.p.iv of this Section, the spent material is stored in tanks, containers, or buildings meeting the following minimum integrity standards: a building must be an engineered structure with a floor, walls, and a roof all of which are made of nonearthen materials providing structural support (except smelter buildings may have partially earthen floors provided the secondary material is stored on the nonearthen portion) and have a roof suitable for diverting rainwater away from the foundation; a tank must be freestanding, not be a surface impoundment (as defined in LAC 33:V.109), and be manufactured of a material suitable for containment of its contents; a container must be free standing and be manufactured of a material suitable for containment of its contents. If tanks or containers contain any particulate that may be subject to wind dispersal, the owner/operator must operate these units in a manner that controls fugitive dust. Tanks, containers, and buildings must be designed, constructed, and operated to prevent significant releases to the environment of these materials;

iv. the administrative authority may make a site-specific determination, after public review and comment, that only solid mineral processing spent materials may be placed on pads, rather than in tanks, containers, or buildings. Solid mineral processing spent materials do not contain any free liquid. The decision-maker must affirm that pads are designed, constructed, and operated to prevent significant releases of the spent material into the environment. Pads must provide the same degree of containment afforded by the non-RCRA tanks, containers, and buildings eligible for exclusion;

(a). the decision-maker must also consider if storage on pads poses the potential for significant releases via groundwater, surface water, and air exposure pathways. Factors to be considered for assessing the groundwater, surface water, air exposure pathways are: the volume and physical and chemical properties of the spent material, including its potential for migration off the pad; the potential for human or environmental exposure to hazardous constituents migrating from the pad via each exposure pathway; and the possibility and extent of harm to human and environmental receptors via each exposure pathway;

(b). pads must meet the following minimum standards: be designed of nonearthen material that is compatible with the chemical nature of the mineral processing spent material; be capable of withstanding physical stresses associated with placement and removal; have run-on/runoff controls; be operated in a manner which controls fugitive dust; and have integrity assurance through inspections and maintenance programs;

(c). ...

v. the owner or operator provides notice to the Office of Environmental Services, Permits Division providing the following information: the types of materials to be recycled; the type and location of the storage units and recycling processes; and the annual quantities expected to be placed in land-based units. This notification must be updated when there is a change in the type of materials recycled or the location of the recycling process; and

vi. for purposes of Subparagraph D.2.h of this Section, mineral processing spent materials must be the result of mineral processing and may not include any listed hazardous wastes. Listed hazardous wastes and characteristic hazardous wastes generated by non-mineral processing industries are not eligible for the conditional exclusion from the definition of solid waste;

D.1.q. - 2.p. ...

i. the solid wastes disposed would meet one or more of the listing descriptions for Hazardous Waste Codes K169, K170, K171, K172, K174, K175, K176, K177, and K178, if these wastes had been generated after the effective date of the listing;

ii. - iv. ...

v. as of February 13, 2001, the leachate or gas condensate derived from K169-K172 is no longer exempt if it is stored or managed in a surface impoundment prior to discharge. After November 21, 2003, leachate or gas condensate derived from K176, K177, and K178 will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge. There is one exception: if the surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situation (e.g., shutdown of wastewater treatment system), provided the impoundment has a double liner, and provided the leachate or gas condensate is removed from the impoundment and continues to be managed in compliance with the conditions of this Clause after the emergency ends.

D.3. - O.2.c.vi. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319

(May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217 (March 1990), LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362 (April 1991), LR 17:368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813 (September 1996), LR 22:831 (September 1996), amended by the Office of the Secretary, LR 23:298 (March 1997), amended by the Office of Solid And Hazardous Waste, Hazardous Waste Division, LR 23:564 (May 1997), LR 23:567 (May 1997), LR 23:721 (June 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), LR 23:1511 (November 1997), LR 24:298 (February 1998), LR 24:655 (April 1998), LR 24:1093 (June 1998), LR 24:1687 (September 1998), LR 24:1759 (September 1998), LR 25:431 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:268 (February 2000), LR 26:2464 (November 2000), LR 27:291 (March 2001), LR 27:706 (May 2001), LR 29:317 (March 2003).

§109. Definitions

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

Hazardous Waste Ca solid waste, as defined in this Section, is a hazardous waste if:

1. - 4.a. ...

b.i. Except as otherwise provided in Clause 4.b.ii, Subparagraph 4.f, or Paragraph 6 of this definition, any solid waste generated from the treatment, storage, or disposal of a hazardous waste, including any sludge, spill residue, ash, emission control dust, or leachate (but not including precipitation runoff) is a hazardous waste. (However, materials that are reclaimed from solid waste and that are used beneficially are not solid wastes and hence are not hazardous wastes under this provision unless the reclaimed material is burned for energy recovery or used in a manner constituting disposal.)

4.b.ii. - e. ...

f. A hazardous waste that is listed in LAC 33:V.4901 solely because it exhibits one or more characteristics of ignitability as defined under LAC 33:V.4903.B, corrosivity as defined under LAC 33:V.4903.C, or reactivity as defined under LAC 33:V.4903.D is not a hazardous waste if the waste no longer exhibits any characteristic of hazardous waste identified in LAC 33:V.4903. The exclusion also pertains to any mixture of a solid waste and a hazardous waste listed in LAC 33:V.4901 solely because it exhibits the characteristics of ignitability, corrosivity, or reactivity, as regulated under Subparagraph 2.c of this definition, and any solid waste generated from treating, storing, or disposing of a hazardous waste listed in LAC 33:V.4901 solely because it exhibits the characteristics of ignitability, corrosivity, or reactivity, as regulated under Clause 4.b.i of this definition. Wastes excluded under this Subparagraph are subject to LAC 33:V.Chapter 22 (as applicable), even if they no longer exhibit a characteristic at the point of land disposal. Any mixture of a solid waste excluded from regulation under LAC 33:V.105.D.2.h and a hazardous waste listed in LAC

33:V.Chapter 49 solely because it exhibits one or more of the characteristics of ignitability, corrosivity, or reactivity, as regulated under Subparagraph 2.d of this definition, is not a hazardous waste if the mixture no longer exhibits any characteristic of hazardous waste identified in LAC 33:V.Chapter 49 for which such hazardous waste was listed.

4.g. - 6.b. ...

Solid Waste

1.a. - 3.b.ii. ...

c. *reclaimed* materials noted with an "*" in column 3 of Table 1 in this Chapter are solid wastes when reclaimed (except as provided under LAC 33:V.105.D.1.p). Materials noted with a "---" in column 3 of Table 1 are not solid wastes when reclaimed;

3.d. - Table 1. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790, 791 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:218 (March 1990), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 19:626 (May 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:655 (April 1998), LR 24:1101 (June 1998), LR 24:1688 (September 1998), LR 25:433 (March 1999), repromulgated LR 25:853 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:269 (February 2000), LR 26:2465 (November 2000), LR 27:291 (March 2001), LR 27:708 (May 2001), LR 28:999 (May 2002), LR 28:1191 (June 2002), LR 29:318 (March 2003).

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

§321. Modification of Permits

A. - C.10. ...

a. Facility owners or operators must have complied with the Notification of Intent to Comply (NIC) requirements of 40 CFR 63.1210 that were in effect prior to October 11, 2000 (see 40 CFR 63, revised as of July 1, 2000) in order to request a permit modification under this Section.

C.10.b. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 15:378 (May 1989), LR 16:614 (July 1990), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1691 (September 1998), LR 25:435 (March 1999), amended by the Office of Environmental Assessment,

Environmental Planning Division, LR 26:2466 (November 2000), LR 28:1000 (May 2002), LR 29:319 (March 2003).

Chapter 5. Permit Application Contents

Subchapter E. Specific Information Requirements

§529. Specific Part II Information Requirements for Incinerators

Except as LAC 33:V.Chapter 31 and Subsection F of this Section provides otherwise, owners and operators of facilities that incinerate hazardous waste must fulfill the requirements of Subsection A, B, or C of this Section.

A. - E.3. ...

F. When an owner or operator demonstrates compliance with the air emission standards and limitations in 40 CFR Part 63, Subpart EEE (i.e., by conducting a comprehensive performance test and submitting a notification of compliance), the requirements of this Section do not apply, except those provisions the administrative authority determines are necessary to ensure compliance with LAC 33:V.3117.A and C if the owner or operator elects to comply with LAC 33:V.2001.A.1.a to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the administrative authority may apply the provisions of this Section, on a case-by-case basis, for purposes of information collection in accordance with LAC 33:V.303.Q and 311.E.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.D.24(a) and 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 22:817 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:2199 (November 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:292 (March 2001), LR 29:319 (March 2003).

§535. Specific Part II Information Requirements for Boilers and Industrial Furnaces Burning Hazardous Waste for Energy or Material Recovery and not for Destruction

A. - F. ...

G. When an owner or operator of a cement or lightweight aggregate kiln demonstrates compliance with the air emission standards and limitations in 40 CFR Part 63, Subpart EEE (i.e., by conducting a comprehensive performance test and submitting a notification of compliance), the requirements of this Section do not apply, except those provisions the administrative authority determines are necessary to ensure compliance with LAC 33:V.3005.E.1 and 2.c if the owner or operator elects to comply with LAC 33:V.2001.A.1.a to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the administrative authority may apply the provisions of this Section, on a case-by-case basis, for purposes of information collection in accordance with LAC 33:V.303.Q and 311.E.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:737 (September 1989), amended LR 18:1375 (December 1992), LR 21:266 (March 1995), LR 22:817 (September 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:292 (March 2001), LR 29:319 (March 2003).

Subchapter F. Special Forms of Permits

§537. Permits for Boiler and Industrial Furnaces Burning Hazardous Waste for Recycling Purposes Only (boilers and industrial furnaces burning hazardous waste for destruction are subject to permit requirements for incinerators)

A. - C.2. ...

D. When an owner or operator of a cement or lightweight aggregate kiln demonstrates compliance with the air emission standards and limitations in 40 CFR Part 63, Subpart EEE (i.e., by conducting a comprehensive performance test and submitting a notification of compliance), the requirements of this Section do not apply, except those provisions the administrative authority determines are necessary to ensure compliance with LAC 33:V.3005.E.1 and 2.c if the owner or operator elects to comply with LAC 33:V.2001.A.1.a to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the administrative authority may apply the provisions of this Section, on a case-by-case basis, for purposes of information collection in accordance with LAC 33:V.303.Q and 311.E.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:737 (September 1989), amended LR 18:1375 (December 1992), LR 21:266 (March 1995), LR 22:818 (September 1996), LR 22:832 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:657 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2468 (November 2000), LR 27:292 (March 2001), LR 29:320 (March 2003).

Chapter 20. Integration with Maximum Achievable Control Technology (MACT) Standards

§2001. Options for Incinerators and Cement and Lightweight Aggregate Kilns to Minimize Emissions from Startup, Shutdown, and Malfunction Events

NOTE: This Chapter is written in a special format to make it easier to understand the regulatory requirements. Like other department regulations, this establishes enforceable legal requirements. For this Chapter, I and you refer to the owner/operator.

A. Facilities with Existing Permits

1. Revisions to Permit Conditions after Documenting Compliance with MACT. The owner or operator of a RCRA -permitted incinerator, cement kiln, or lightweight aggregate kiln may request that the administrative authority address permit conditions that minimize emissions from startup, shutdown, and malfunction events under any of the following options when requesting removal of permit conditions that are no longer applicable according to LA C 33:V.3105.B and LAC 33:V.3001.B.

a. Retain Relevant Permit Conditions. Under this option, the administrative authority will:

i. retain permit conditions that address releases during startup, shutdown, and malfunction events, including releases from emergency safety vents, as these events are defined in the facility's startup, shutdown, and malfunction plan required under 40 CFR 63.1206(c)(2); and

ii. specify that these permit conditions apply only when the facility is operating under its startup, shutdown, and malfunction plan.

b. Revise Relevant Permit Requirements

i. Under this option, the administrative authority will:

(a). identify a subset of relevant existing permit requirements, or develop alternative permit requirements, that ensure emissions of toxic compounds are minimized from startup, shutdown, and malfunction events, including releases from emergency safety vents, based on review of information including the source's startup, shutdown, and malfunction plan, design, and operating history; and

(b). retain or add these permit requirements to the permit to apply only when the facility is operating under its startup, shutdown, and malfunction plan.

ii. Changes That May Significantly Increase Emissions

(a). You must notify the administrative authority in writing of changes to the startup, shutdown, and malfunction plan or changes to the design of the source that may significantly increase emissions of toxic compounds from startup, shutdown, or malfunction events, including releases from emergency safety vents. You must notify the administrative authority of such changes within five days of making such changes. You must identify in the notification recommended revisions to permit conditions necessary as a result of the changes to ensure that emissions of toxic compounds are minimized during these events.

(b). The administrative authority may revise permit conditions as a result of these changes to ensure that emissions of toxic compounds are minimized during startup, shutdown, or malfunction events, including releases from emergency safety vents either upon permit renewal or, if warranted, by modifying the permit under LAC 33:V.323.B.2.c or LAC 33:V.321.C.

c. Remove Permit Conditions. Under this option:

i. you must document that the startup, shutdown, and malfunction plan required under 40 CFR 63.1206(c)(2) has been approved by the administrator under 40 CFR 63.1206(c)(2)(ii)(B); and

ii. the administrative authority will remove permit conditions that are no longer applicable according to LAC 33:V.3105.B and LAC 33:V.3001.B.

2. Addressing Permit Conditions upon Permit Reissuance. The owner or operator of an incinerator, cement kiln, or lightweight aggregate kiln that has conducted a comprehensive performance test and submitted to the administrator a Notification of Compliance documenting compliance with the standards of 40 CFR Part 63, Subpart EEE may request in the application to reissue the permit for the combustion unit that the administrative authority control emissions from startup, shutdown, and malfunction events under any of the following options.

a. RCRA Option A. Under this option, the administrative authority will:

i. include, in the permit, requirements that ensure compliance with LAC 33:V.3117.B and C or LAC 33:V.3005.E.1 and 2.c to minimize emissions of toxic compounds from startup, shutdown, and malfunction events, including releases from emergency safety vents; and

ii. specify that these permit requirements apply only when the facility is operating under its startup, shutdown, and malfunction plan.

b. RCRA Option B

i. Under this option, the administrative authority will:

(a). include, in the permit, conditions that ensure emissions of toxic compounds are minimized from startup, shutdown, and malfunction events, including releases from emergency safety vents, based on review of information including the source's startup, shutdown, and malfunction plan, design, and operating history; and

(b). specify that these permit requirements apply only when the facility is operating under its startup, shutdown, and malfunction plan.

ii. Changes That May Significantly Increase Emissions

(a). You must notify the administrative authority in writing of changes to the startup, shutdown, and malfunction plan or changes to the design of the source that may significantly increase emissions of toxic compounds from startup, shutdown, or malfunction events, including releases from emergency safety vents. You must notify the administrative authority of such changes within five days of making such changes. You must identify in the notification recommended revisions to permit conditions necessary as a result of the changes to ensure that emissions of toxic compounds are minimized during these events.

(b). The administrative authority may revise permit conditions as a result of these changes to ensure that emissions of toxic compounds are minimized during startup, shutdown, or malfunction events, including releases from emergency safety vents either upon permit renewal or, if warranted, by modifying the permit under LAC 33:V.323.B.2.c or LAC 33:V.321.C.

c. CAA Option. Under this option:

i. you must document that the startup, shutdown, and malfunction plan required under 40 CFR 63.1206(c)(2) has been approved by the administrator under 40 CFR 63.1206(c)(2)(ii)(B); and

ii. the administrative authority will remove permit conditions that are no longer applicable under LAC 33:V.3105.B and LAC 33:V.3001.B.

B. Interim Status Facilities

1. Interim Status Operations. In compliance with LAC 33:V.4513 and LAC 33:V.3001.B, the owner or operator of an incinerator, cement kiln, or lightweight aggregate kiln that is operating under the interim status standards of LAC 33:V.Chapters 30 and 43 may control emissions of toxic compounds during startup, shutdown, and malfunction events under either of the following options after conducting a comprehensive performance test and submitting to the administrator a Notification of Compliance documenting compliance with the standards of 40 CFR Part 63, Subpart EEE.

a. RCRA Option. Under this option, you must continue to comply with the interim status emission standards and operating requirements of LAC 33:V.Chapters 30 and 43 relevant to control of emissions from startup, shutdown, and malfunction events. Those standards and requirements apply only during startup, shutdown, and malfunction events.

b. CAA Option. Under this option, you are exempt from the interim status standards of LAC 33:V.Chapters 30 and 43 relevant to control of emissions of toxic compounds during startup, shutdown, and malfunction events upon submission of written notification and documentation to the administrative authority that the startup, shutdown, and malfunction plan required under 40 CFR 63.1206(c)(2) has been approved by the administrator under 40 CFR 63.1206(c)(2)(ii)(B).

2. Operations under a Subsequent RCRA Permit. When an owner or operator of an incinerator, cement kiln, or lightweight aggregate kiln that is operating under the interim status standards of LAC 33:V.Chapters 30 and 43 submits a RCRA permit application, the owner or operator may request that the administrative authority control emissions from startup, shutdown, and malfunction events under any of the options provided by Subparagraph A.2.a, b, or c of this Section.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 29:320 (March 2003).

Chapter 22. Prohibitions on Land Disposal

Subchapter A. Land Disposal Restrictions

§2219. Waste Specific Prohibitions C Inorganic

Chemical Wastes

A. Effective May 20, 2002, the wastes specified in 40 CFR Part 261 as EPA Hazardous Waste Numbers K176, K177, and K178, soil and debris contaminated with these wastes, radioactive wastes mixed with these wastes, and soil and debris contaminated with radioactive wastes mixed with these wastes are prohibited from land disposal.

B. The requirements of Subsection A of this Section do not apply if:

1. the wastes meet the applicable treatment standards specified in LAC 33:V.2223 and Table 2 of this Chapter;

2. persons have been granted an exemption from a prohibition in accordance with a petition under LAC 33:V.2241, with respect to those wastes and units covered by the petition;

3. the wastes meet the applicable treatment standards established in accordance with a petition granted under LAC 33:V.2231;

4. hazardous debris has met the treatment standards in LAC 33:V.2223 or the alternative treatment standards in LAC 33:V.2230; or

5. persons have been granted an extension to the effective date of a prohibition in accordance with LAC 33:V.2239, with respect to those wastes covered by the extension.

C. To determine whether a hazardous waste identified in this Section exceeds the applicable treatment standards specified in LAC 33:V.2223, the initial generator must test a sample of the waste extract or the entire waste, depending on whether the treatment standards are expressed as concentrations in the waste extract or the waste, or the generator may use knowledge of the waste. If the waste contains regulated constituents in excess of the applicable levels in LAC 33:V.2223 and Table 2 of this Chapter, the waste is prohibited from land disposal, and all requirements of this Chapter are applicable, except as otherwise specified.

Appendix

Table 2. Treatment Standards for Hazardous Wastes

Waste Code	Waste Description and Treatment/Regulatory Subcategory 1	Regulated Hazardous Constituent		Wastewaters	Non-wastewaters
		Common Name * * *	CAS2 Number	Concentration in mg/l3; or Technology Code4	Concentration in mg/kg5 unless noted as "mg/l TCLP" or Technology Code4
[See Prior Text in D001 – K175]					
K176	Baghouse filters from the production of antimony oxide, including filters from the production of intermediates (e.g., antimony metal or crude antimony oxide).	Antimony	7440-36-0	1.9	1.15 mg/l TCLP
		Arsenic	7440-38-2	1.4	5.0 mg/l TCLP
		Cadmium	7440-43-9	0.69	0.11 mg/l TCLP
		Lead	7439-92-1	0.69	0.75 mg/l TCLP
		Mercury	7439-97-6	0.15	0.025 mg/l TCLP
K177	Slag from the production of antimony oxide that is speculatively accumulated or disposed, including slag from the production of intermediates (e.g., antimony metal or crude antimony oxide).	Antimony	7440-36-0	1.9	1.15 mg/l T CLP
		Arsenic	7440-38-2	1.4	5.0 mg/l TCLP
		Lead	7439-92-1	0.69	0.75 mg/l TCLP
K178	Residues from manufacturing and manufacturing-site storage of ferric chloride from acids formed during the production of titanium dioxide using the chloride-ilmenite process.	1,2,3,4,6,7,8-Heptachlorodibenzo-p-dioxin (1,2,3,4,6,7,8-HpCDD)	35822-39-4	0.00035 or CMBST11	0.0025 or CMBST11
		1,2,3,4,6,7,8-Heptachlorodibenzofuran (1,2,3,4,6,7,8-HpCDF)	67562-39-4	0.00035 or CMBST11	0.0025 or CMBST11
		1,2,3,4,7,8,9-Heptachlorodibenzofuran (1,2,3,4,7,8,9-HpCDF)	55673-89-7	0.00035 or CMBST11	0.0025 or CMBST11
		HxCDDs (All Hexachlorodibenzo-p-dioxins)	34465-46-8	0.00063 or CMBST11	0.001 or CMBST11
		HxCDFs (All Hexachlorodibenzofurans)	55684-94-1	0.00063 or CMBST11	0.001 or CMBST11
		1,2,3,4,6,7,8,9-Octachlorodibenzo-p-dioxin (OCDD)	3268-87-9	0.00063 or CMBST11	0.005 or CMBST11
		1,2,3,4,6,7,8,9-Octachlorodibenzofuran (OCDF)	39001-02-0	0.00063 or CMBST11	0.005 or CMBST11
		PeCDDs (All Pentachlorodibenzo-p-dioxins)	36088-22-9	0.00063 or CMBST11	0.001 or CMBST11
		PeCDFs (All Pentachlorodibenzofurans)	30402-15-4	0.00035 or CMBST11	0.001 or CMBST11
		TCDDs (All tetrachlorodibenzo-p-dioxins)	41903-57-5	0.00063 or CMBST11	0.001 or CMBST11
		TCDFs (All tetrachlorodibenzofurans)	55722-27-5	0.00063 or CMBST11	0.001 or CMBST11
		Thallium	7440-28-0	1.4	0.20 mg/l TCLP
* * *					
[See Prior Text in P001 – U411]					

Notes 1 - 12 ...
NOTE: NA means not applicable.

Chapter 26. Corrective Action Management Units and Special Provisions for Cleanup

§2603. Corrective Action Management Units (CAMUs)

A. - E.4.a.ii. ...

iii. The administrative authority may also designate other constituents as principal hazardous constituents that the administrative authority determines pose a risk to human health and the environment substantially higher than the cleanup levels or goals at the site.

E.4.b. - K. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:1192 (June 2002), LR 29:323 (March 2003).

Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces

§3001. Applicability

A. The regulations of this Chapter apply to hazardous waste burned for energy or material recovery in a boiler or industrial furnace (as defined in LAC 33:V.109) irrespective of the purpose of burning or processing, except as provided by Subsections B-D, G, and H of this Section. In this Chapter, the term "burn" means burning for energy recovery or destruction, or processing for materials recovery or as an ingredient. The emissions standards of LAC 33:V.3009-3015 apply to facilities operating under interim status or under a hazardous waste permit as specified in LAC 33:V.3005 and 3007.

B. Integration of the MACT Standards

1. Except as provided by Paragraph B.2 of this Section, the standards of this Chapter no longer apply when an affected source demonstrates compliance with the maximum achievable control technology (MACT) requirements of 40 CFR Part 63, Subpart EEE by conducting a comprehensive performance test and submitting to the administrative authority a notification of compliance under 40 CFR 63.1207(j) and 63.1210(b) documenting compliance with the requirements of 40 CFR Part 63, Subpart EEE. Nevertheless, even after this demonstration of compliance with the MACT standards, RCRA permit conditions that were based on the standards of this Chapter will continue to be in effect until they are removed from the permit or the permit is terminated or revoked, unless the permit expressly provides otherwise.

2. The following standards continue to apply:

a. if the owner or operator elects to comply with LAC 33:V.2001.A.1.a to minimize emissions of toxic compounds from startup, shutdown, and malfunction events, LAC 33:V.3005.E.1, requiring operations in accordance with the operating requirements specified in the permit at all times that hazardous waste is in the unit, and LAC 33:V.3005.E.2.c, requiring compliance with the emission standards and operating requirements during startup and shutdown if hazardous waste is in the combustion chamber, except for particular hazardous wastes. These provisions apply only during startup, shutdown, and malfunction events;

b. the closure requirements of LAC 33:V.3005.I and 3007.L;

c. the standards for direct transfer of LAC 33:V.3023;

d. the standards for regulation of residues of LAC 33:V.3025; and

e. the applicable requirements of LAC 33:V.901, 905, 907, 909, Chapters 15, 17 (Subchapters B and C), 33, 35, 37, and 43 (Subchapters A-G, R, and V), 4301.A-C, G, and I, and 4306.

C. - D.2.b. ...

3. To be exempt from LAC 33:V.3005-3023, an owner or operator of a lead or nickel-chromium or mercury recovery furnace (except for owners or operators of lead recovery furnaces subject to regulation under the Secondary Lead Smelting NESHAP) or a metal recovery furnace that burns baghouse bags used to capture metallic dusts emitted by steel manufacturing must provide a one-time written notice to the administrative authority identifying each hazardous waste burned, specifying whether the owner or operator claims an exemption for each waste under Paragraph D.1 or 3 of this Section. The owner or operator must comply with the requirements of Paragraph D.1 of this Section for those wastes claimed to be exempt under that Section and must comply with the requirements below for those wastes claimed to be exempt under this Section.

D.3.a. - H. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:821 (September 1996), LR 22:835 (September 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1466 (August 1999), LR 27:297 (March 2001), LR 27:712 (May 2001), LR 29:323 (March 2003).

Chapter 31. Incinerators

§3105. Applicability

A. - B. ...

1. Except as provided by Paragraphs B.2, 3, and 4 of this Section, the standards of this Subsection no longer apply when an owner or operator demonstrates compliance with the maximum achievable control technology (MACT) requirements of 40 CFR Part 63, Subpart EEE by conducting a comprehensive performance test and submitting to the administrative authority a notification of compliance under 40 CFR 63.1207(j) and 63.1210(b) documenting compliance with the requirements of 40 CFR Part 63, Subpart EEE. Nevertheless, even after this demonstration of compliance with the MACT standards, RCRA permit conditions that were based on the standards of LAC 33:V.901, 905, 907, and Chapters 15-21, 23-29, and 31-37 will continue to be in effect until they are removed from the permit or the permit is terminated or revoked, unless the permit expressly provides otherwise.

2. ...

3. The particulate matter standard of LAC 33:V.3111.A.4 remains in effect for incinerators that elect to comply with the alternative to the particulate matter standard of 40 CFR 63.1206(b)(14).

4. The following requirements remain in effect for startup, shutdown, and malfunction events if the owner or

operator elects to comply with LAC 33:V.2001.A.1.a to minimize emissions of toxic compounds from these events:

a. LAC 33:V.3117.A, requiring that an incinerator operate in accordance with operating requirements specified in the permit; and

b. LAC 33:V.3117.C, requiring compliance with the emission standards and operating requirements during startup and shutdown if hazardous waste is in the combustion chamber, except for particular hazardous wastes.

C. - Table 1.Footnote 1. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:1139 (December 1985), LR 13:433 (August 1987), LR 14:424 (July 1988), LR 15:737 (September 1989), LR 16:399 (May 1990), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:944 (September 1995), LR 22:835 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:318 (February 1998), LR 24:681 (April 1998), LR 24:1741 (September 1998), LR 25:479 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:301 (March 2001), LR 28:1004 (May 2002), LR 29:323 (March 2003).

§3115. Incinerator Permits for New or Modified Facilities

A. - D. ...

E. When an owner or operator demonstrates compliance with the air emission standards and limitations in 40 CFR Part 63, Subpart EEE (i.e., by conducting a comprehensive performance test and submitting a notification of compliance), the requirements of this Section do not apply, except those provisions the administrative authority determines are necessary to ensure compliance with LAC 33:V.3117.A and C if the owner or operator elects to comply with LAC 33:V.2001.A.1.a to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the administrative authority may apply the provisions of this Section, on a case-by-case basis, for purposes of information collection in accordance with LAC 33:V.303.Q and 311.E.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste,

Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:614 (July 1990), LR 18:1256 (November 1992), LR 22:828 (September 1996), LR 22:835 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:683 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2484 (November 2000), LR 27:302 (March 2001), LR 29:324 (March 2003).

Chapter 43. Interim Status

Subchapter N. Incinerators

§4513. Applicability

A. - B. ...

1. Except as provided by Paragraphs B.2 and 3 of this Section, the standards of this Chapter no longer apply when an owner or operator demonstrates compliance with the maximum achievable control technology (MACT) requirements of 40 CFR Part 63, Subpart EEE by conducting a comprehensive performance test and submitting to the administrative authority a notification of compliance under 40 CFR 63.1207(j) and 63.1210(b) documenting compliance with the requirements of 40 CFR Part 63, Subpart EEE.

2. The following requirements continue to apply even where the owner or operator has demonstrated compliance with the MACT requirements of 40 CFR Part 63, Subpart EEE, LAC 33:V.4521 (closure), and the applicable requirements of LAC 33:V.4301.A-C, G, and I, 4306, and Chapter 43 (Subchapters A -G, R, and V).

3. LAC 33:V.4517.A, generally prohibiting burning of hazardous waste during startup and shutdown, remains in effect if the owner or operator elects to comply with LAC 33:V.2001.B.1.a to minimize emissions of toxic compounds from startup and shutdown.

C. - C.4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:737 (September 1989), amended LR 16:220 (March 1990), LR 18:1375 (December 1992), LR 20:1000 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:303 (March 2001), LR 29:324 (March 2003).

Chapter 49. Lists of Hazardous Wastes

§4901. Category I Hazardous Wastes

A. - C. ...

Table 2. Hazardous Wastes from Specific Sources

Industry and EPA Hazardous Waste Number	Hazard Code	Hazardous Waste

[See Prior Text in Wood Preservation, K001 – Inorganic Chemicals, K106]		
K176	(E)	Baghouse filters from the production of antimony oxide, including filters from the production of intermediates (e.g., antimony metal or crude antimony oxide).
K177	(T)	Slag from the production of antimony accumulated or disposed, including slag from the production of intermediates (e.g., antimony metal or crude antimony oxide).
K178	(T)	Residues from manufacturing-site storage of ferric chloride from acids formed during the production of titanium dioxide using the chloride-ilmenite process.

[See Prior Text in Pesticides, K031 – Coking, K148]		

D. - G. ...

Table 6. Table of Constituents that Serve as a Basis for Listing Hazardous Waste

[See Prior Text in F001 – K175, Mercury]
EPA Hazardous Waste Number K176
Arsenic
Lead
EPA Hazardous Waste Number K177
Antimony
EPA Hazardous Waste Number K178
Thallium

RULE

**Office of the Governor
Division of Administration
Board of Cosmetology**

CosmetologyCComplete Revision
(LAC 46:XXXI.Chapters 1-17)

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:320 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 14:426 (July 1988), LR 14:790 (November 1988), LR 15:182 (March 1989), LR 16:47 (January 1990), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 16:1057 (December 1990), LR 17:369 (April 1991), LR 17:478 (May 1991), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:829 (September 1996), LR 22:840 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:1522 (November 1997), LR 24:321 (February 1998), LR 24:686 (April 1998), LR 24:1754 (September 1998), LR 25:487 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:304 (March 2001), LR 27:715 (May 2001), LR 28:1009 (May 2002), LR 29:324 (March 2003).

§4903. Category II Hazardous Wastes

A. - E. ...

1. A solid waste (except manufactured gas plant waste) exhibits the characteristic of toxicity if, using the Toxicity Characteristic Leaching Procedure, Method 1311 described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, the extract from a representative sample of the waste contains any of the contaminants listed in Paragraph E.2. Table 5 of this Section at the concentration equal to or greater than the respective value given in that table. Where the waste contains less than 0.5 percent filterable solids, the waste itself, after filtering using the methodology outlined in Method 1311, is considered to be the extract for the purposes of this Section.

E.2. - F. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:1057 (December 1990), LR 17:369 (April 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 22:829 (September 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:325 (March 2003).

James H. Brent, Ph.D.
Assistant Secretary

0303#012

The State Board of Cosmetology, under authority of R.S. 37:561-607, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., has adopted certain Rules with regard to licensing of cosmetologists.

The revision is necessitated by Act 907 of 2001 which revised the Louisiana Cosmetology Act.

There should be no adverse fiscal impact on the state as a result of this Rule inasmuch as the Louisiana State Board of Cosmetology operates solely on self-generated funds. Further, the Rules have no known impact on family formation, stability or autonomy as described in R.S. 49:972.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXI. Cosmetologists

Chapter 1. General Provisions

§101. Definitions

A. As used in this Part, the following words shall have the meaning herein ascribed to each, unless the context clearly indicates otherwise.

*Alternative Hair*Cany hair which is not a person's own hair including synthetic hair, wiggery, braids, postich or any applied hair.

*Alternative Hair Design*Cthe practice of styling hair by twisting, wrapping weaving, extending, locking or braiding the hair by either the use of hands or mechanical devices or appliances. The practice of alternative hair design shall include the application of antiseptics, powders, oils, clays, lotions or tonics to the alternative hair but shall not include the application of dyes, reactive chemicals or other preparations to alter the structure or style of the natural hair.

*Client*Ca person who receives a cosmetology, esthetics or manicuring service.

*Dermis*Cunderlying or inner layer of the skin; the layer below the epidermis; the corium or true skin, including papillary layer, capillaries, tactile corpuscles, melanin (pigment), subcutaneous tissue, adipose or subcutis, arteries and lymphatics.

*Disposable*Can item which cannot be sanitized. All disposable items shall be discarded after a single use. The following items shall be considered disposable: facial tissues, sponges, cloths, extraction tissue, lancets, gloves, wax strips and sticks, tissues, cotton pads and emery boards.

*Epidermis*Cthe outermost layer of the skin; the outer epithelial portion of the skin including stratum corneous, stratum lucidum, stratum granulosum, stratum spinosum (prickle cell layer), stratum mucosum, and stratum germinativum.

*Exfoliate or Exfoliation*Cthe process of sloughing off, removing or peeling dead skin cells of the epidermis using chemicals or devices.

Natural Hair—Any hair which is a person's own which has grown on the person's body and has not been separated from the person's body.

Sanitize or Sanitization—The process of using heat, steam or chemicals to destroy microbial life, including highly resistant bacterial endospores. Sanitization shall be performed using EPA registered hospital grade disinfectant or a sterilization device which uses heat or steam in accordance with the manufacturer's instructions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Louisiana State Board of Cosmetology, LR 29:325(March 2003).

Chapter 3. Schools and Students

§301. Cosmetology Course Requirements

A. Curriculum. The cosmetology curriculum shall consist of at least 1500 hours of instruction which shall include but not be limited to the following.

1. Scientific Concepts
 - a. Infection Control
 - b. OSHA Requirements
 - c. Human Physiology
 - d. Chemical Principles
 - e. Hair and Scalp
 - f. Nails
2. Physical Services
 - a. Shampoo
 - b. Draping
 - c. Rinses and Conditioners
 - d. Scalp
 - e. Facials
 - f. Makeup
 - g. Manicuring
3. Chemical Services
 - a. Hair Coloring
 - b. Hair Lightening
 - c. Chemical Waving
 - d. Chemical Relaxing
4. Hair Designing
 - a. Hair Shaping
 - b. Hair Cutting
5. Louisiana Cosmetology Act and Rules and Regulations

AUTHORITY NOTE: Promulgated in accordance with R.S.37:575(A)(7).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:326 (March 2003).

§303. Esthetics Course Requirements

A. Curriculum. The esthetics curriculum shall consist of at least 750 hours of instruction which shall include but not be limited to the following.

1. Scientific Concepts
 - a. Sanitation and Sterilization
 - b. Human Physiology and Anatomy
 - c. Skin Histology
 - d. Skin Diseases and Disorders
 - e. Nutrition
 - f. General Chemistry
2. Services
 - a. Skin Analysis
 - b. Draping

- c. Product Selections
- d. Cleansing Procedure
- e. Selecting and Employing Massage
- f. Selecting and Employing Mask Therapy
- g. Electricity and Various Electrical Apparatus
- h. Hair Removal
- i. Hazards to Skin
- j. Aromatherapy
- k. Spa
- l. Makeup

3. Louisiana Cosmetology Act and Rules and Regulations

AUTHORITY NOTE: Promulgated in accordance with R.S.37:575(A)(7).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:326 (March 2003).

§305. Manicuring Course Requirements

A. Curriculum. The manicuring curriculum shall consist of at least 500 hours which shall include but not be limited to the following.

1. Scientific Concepts
 - a. Basic Human Physiology
 - b. Nail Composition
 - c. Chemistry
 - d. Sanitizing and Sterilizing
2. Procedures
 - a. Supplies and Implements
 - b. Artificial and Natural Nail Technology
 - c. Manicure
 - d. Pedicure
 - e. Basic Massage
3. Application and Repair of Artificial and Natural Nails
4. Safety and Infection Control
5. Louisiana Cosmetology Act and Rules and Regulations

AUTHORITY NOTE: Promulgated in accordance with R.S.37:575(A)(7).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:326 (March 2003).

§307. Instructor Course Requirements

A. Curriculum. The curriculum for cosmetology instructors, esthetics instructors and manicuring instructors shall consist of at least 500 hours and shall include but not be limited to the following.

1. Teaching Methods
 - a. Classroom Preparation
 - b. Teaching Methods
 - c. Speech
2. Effectiveness of Instruction
 - a. Purpose and Types of Tests
 - b. Selection of Appropriate Testing Methods
 - c. Validity and Reliability of Teaching Methods via Tests
3. Instructor Qualities
 - a. Proper Conduct of Instruction
 - b. Classroom Supervision and Control
4. Learning Environment
 - a. Classroom Conditions
 - b. Keeping Record

- c. Motivation
- d. Assessing Students' Needs
- e. Utilization of Safety Procedures

AUTHORITY NOTE: Promulgated in accordance with R.S.37:575(A)(7).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:326 (March 2003).

§309. Examination of Applicants

A. Eligibility. The following persons shall be eligible to take the written and practical examinations after receiving a clearance from the school last attended and a clearance from the board:

- 1. cosmetology students who have completed 1500 hours and 36 weeks of the cosmetology curriculum; however, cosmetology students who have completed 1000 hours of the cosmetology curriculum may take the written examination;
- 2. esthetics students who have completed 750 hours of the esthetics curriculum;
- 3. manicuring students who have completed 500 hours of the manicuring curriculum;
- 4. instructor students who have completed 500 hours of the instructor curriculum;
- 5. persons holding a cosmetology, esthetics, manicuring or instructor license issued by another state; and
- 6. persons holding a cosmetology, esthetics, manicuring or instructor license issued by another country who have received board approval.

B. Applications. Applications for examinations must be accompanied by a student registration certificate, a photograph of the student, and the \$25 initial license fee.

C. Fees. All fees contractually owed by an applicant to a cosmetology school from which they graduated must be paid before applying for an examination, for a certificate of registration or for a license.

D. Cancellation. Any student who fails to appear for their scheduled examination without proper notification will be required upon reapplication to submit a \$25 administrative fee. Proper notification shall be made by contacting the board office seven days prior to the scheduled examination or in the case of an emergency 24 hours prior to the scheduled examination.

E. Examination. Students must bring a mannequin with the head styled for comb-out to the examination. Students will be required to perform further practical work on the mannequin during the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:575(A)(4) and R.S. 37:586.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:327 (March 2003).

§311. Reporting Student Hours

A. Registration. Schools shall register students with the board within 60 days after the students start school. The maximum number of hours which will be accepted by the board at the time of registration is the number of hours earned within 60 days preceding registration.

B. Hours. Schools must register each student's hours with the board in the following manner:

- 1. at the completion of 1,000 hours (2/3 of curriculum) and completion of the curriculum for cosmetology students;

- 2. at the completion of the curriculum for esthetics students;

- 3. at the completion of the curriculum for manicuring students; and

- 4. at the completion of the curriculum for instructor students.

C. Attendance. School owners must certify the student's attendance for hours reported to the board. No overtime or double time shall be permitted. Only hours devoted to the prescribed curriculum shall be included. Students shall not earn more than 48 hours of training in any calendar week.

D. Reports. The hour report submitted by the school to the board shall be signed by the senior instructor, or in the absence of the senior instructor, the report shall be signed by the person in charge, who shall designate his capacity as acting senior instructor. The report shall include a list of the current instructors.

E. Dropped Students. Schools are required to provide to the board the names of the students who drop from their rolls within 30 days and to provide the number of hours earned during the student's attendance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:598.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:327 (March 2003).

§313. Transfer Students

A. Out-of-State. The board will accept student hours certified by an out-of-state school provided that the hours are transferred to a Louisiana school. The Louisiana school shall evaluate the student's transcript and determine how many hours of the curriculum have been completed by the student. The school shall submit to the board a verification of the number of transferable hours which shall include supporting data, a certificate from the out-of-state school and a certificate from the state board which supervises the school.

B. In-State. When enrolling a transfer student from another school within Louisiana, the school owner must provide the board with the following:

- 1. student enrollment application indicating on the application that it is a re-registration;
- 2. certification of payment of contractual fees owed to the former school; and
- 3. if the student has transferred schools more than once, a re-registration fee of \$10 must accompany the application.

C. Notice of Termination. Any students transferring hours from one school to another is required to submit a Notice of Termination Form within 30 days of student's drop-out date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:598(A)(4).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:327 (March 2003).

§315. Responsibilities of Schools

A. Enrollment. Upon enrollment of a student the school must provide the following to the board:

- 1. student enrollment application;
- 2. the student's birth certificate, birth card or driver's license;
- 3. proof of completion of education equal to the tenth grade;

4. a photograph of the student; and
5. the student registration fee.

B. Reports. Schools must maintain hour reports for a minimum of three years.

C. Mannequin. Schools must furnish to each student, at a nominal fee, a mannequin upon which the student may practice and may use for the practical examination.

D. Professional Department. Schools shall not have professional departments within the school, nor shall any school owner own or operate a beauty shop or salon in connection with a school. School staff members shall not practice in an adjoining beauty shop or salon, while school is in session. There shall be no unsealed connecting doors between a beauty shop or salon under the same roof.

E. Faculty. All schools must maintain a faculty of at least one instructor per every 20 students enrolled. Each faculty shall include a senior instructor who shall have at least 18 months teaching experience in an accredited school of cosmetology. The senior instructor shall supervise all other faculty members.

F. Senior Instructor. In the event that the senior instructor resigns or takes a leave of absence, the school shall advise the board monthly of their efforts to employ a new senior instructor.

G. School Closing. Any school owner which intends to close any school shall notify the board in writing as soon as practicable. Copies of documents relative to closure must be provided to the board office, including, but not limited to, teach-out plans and teach-out agreements. The board shall be the custodian of records for any school which closes.

H. Student Work. Schools shall post a legible sign not smaller than 6 inches by 10 inches, at the entrance of each school reading: "Student Work Only".

I. Compensation. Schools shall not pay commissions or any other compensation, discount or fee to a cosmetology, esthetics or manicuring student for work in training done by them.

J. Registrations. All student registrations must be posted in a conspicuous place.

K. Text Books. Schools must provide a textbook to each student upon registration.

L. Library. Schools must maintain a library which shall be available to all students.

M. Hours. Schools must post a monthly summary of hours earned by each student.

N. Cosmetology Services. No employee or owner of a school shall knowingly permit students to perform any professional cosmetology work for which they do not possess a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:595.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:327 (March 2003).

§317. Equipment Required in Cosmetology Schools

A. Equipment. Every cosmetology school must have a practical work room and working equipment including:

1. six shampoo bowls;
2. six hair dryers;
3. three manicuring tables;
4. cold wave equipment sufficient for six permanents;

5. sufficient trays for supplies;
6. covered waste containers sufficient to maintain sanitation in the school;
7. one wet and dry sanitizer for each occupied station;
8. six mannequins;
9. twenty working stations;
10. covered containers for soiled towels; and
11. locker space for each student.

B. Classroom. Every cosmetology school must have a classroom with a minimum of 400 square feet, entirely separate from the practical work room, equipped with the following:

1. modern anatomy charts;
2. marker or chalk board, minimum 4 feet by 6 feet; and
3. sufficient seating with facilities for classroom work, such as taking notes.

C. Use of Rooms. The area designated for classrooms or practical work rooms shall not be used for any other purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:595(A)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:328 (March 2003).

§319. Field Trips; Seminars; Workshops; Shows and Community Service

A. Schools are permitted but not required to offer to their students an opportunity to earn credit hours for cosmetology related field trips, seminars, workshops, shows and community service as follows:

1. up to 40 hours for cosmetology students;
2. up to 15 hours for manicuring students;
3. up to 20 hours for esthetics students; and
4. up to 20 hours for instructor students.

B. Documentation. In order for students to receive credit for cosmetology related field trips, seminars, workshops, shows or community service, the school must annotate the course outlines to reflect the maximum hours which may be earned. Example: Cosmetology Course Outline-40 hours during the length of the course are assigned to cosmetology-related field trips, seminars, workshops and community service.

C. Participation. Participation in field trips, seminars, workshops, shows or community service by students is voluntary. Students who choose not to participate must be given other related assignments.

D. Monitoring. An instructor must accompany students on any field trip. Attendance shall be monitored at the beginning, midpoint and close of the function and documented by the instructor. Travel time shall not be included in the hours credited for the field trip.

E. Documentation. Schools must retain documentation of field trips, seminars, workshops, shows and community service hours.

F. Compensation. No school or student shall accept any compensation for cosmetology related field trips, seminars, workshops, shows or community service. All money collected for community service must be paid to the charity for which the function was sponsored.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:328 (March 2003).

§321. Responsibilities of Students

A. Students. Students shall not be allowed to perform any professional cosmetology work for which the student does not possess a license, prior to completion of the curriculum passing the examination administered by the board and receipt of an initial license. Any student found to be in violation of this rule will forfeit all hours completed in beauty school and any school knowingly permitting a serious violation of this section shall be subject to suspension or revocation of its license.

B. Services. Students attending beauty school shall not provide cosmetology services whether for a fee or not in any licensed beauty salon or shop or in any premises which is not licensed unless the student possesses a license to perform such services. This regulation applies even though the student's immediate family or the student themselves has an ownership interest in the beauty shop salon in question, or jeopardy of the student losing a portion of or all their hours.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Louisiana State Board of Cosmetology, LR 29:329 (March 2003).

Chapter 5. Licensees

§501. Booth Renters (Formerly LAC 46:XXXI.1103)

A. Agreement. A copy of the executed agreement between the salon owner and the cosmetologist shall be submitted to the board at the time of application for a booth rental permit.

B. Form. The board will furnish a contractual agreement form for a nominal fee. In the event an agreement is not on the form supplied by the board, the agreement shall contain the following information:

1. a statement indicating that both parties agree that the cosmetologist is not an employee of the salon;
2. a statement indicating the salon owner has no right to control the methodology used by the cosmetologist to produce a given result; and
3. a statement indicating the basis of the cosmetologist's compensation.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:592.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:329 (March 2003).

§503. School Licenses Issued to Legal Entities

A. School License. Any corporation, association, partnership or other legal entity applying for a license to operate a school shall provide the following to the board:

1. the name and address of each place of business maintained by the entity in the state of Louisiana;
2. a financial statement;
3. the articles of incorporation, articles of organization, partnership agreement or other organizational documentation;
4. the names, addresses and percentage interest of each partner, member or stockholder, for the purpose of this subsection a landlord or lessor of equipment paid a percentage exceeding 20 percent shall be considered an owner or partner; and

5. the name and address of individual managing officer or partner.

B. Ownership change. A change of ownership of 35 percent or greater shall require submission of all information required by Subsection A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:329 (March 2003).

§505. Master Cosmetology Instructors

A. Gold Stamp. Any instructor who completes 16 hours of approved continuing education each year shall receive a gold stamp on his or her license.

B. Master Instructors. All instructors with a minimum of five years teaching experience and who attend 16 hours of approved continuing education each year will receive a master instructor license with an official title, MCI.

C. Reinstatements. In order to maintain the master instructor license the instructor must attend a minimum of 16 hours of approved continuing education each year. If a master instructor does not attend the 16 hours during one year, the master instructor license will be reinstated after two consecutive years of completing 16 hours of approved continuing education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:329 (March 2003).

Chapter 7. Safety and Sanitation Requirements

§701. Sanitation Requirements for Cosmetology Salons and Cosmetology Schools

A. Sanitation. Beauty shops, salons and cosmetology schools are declared to be businesses affecting the public health, safety and welfare; therefore, sanitation procedures must be followed. Every beauty shop, salon and cosmetology school shall be adequately lighted, well ventilated, and kept in a clean and sanitary condition at all times.

B. Equipment. All beauty shops and salons and cosmetology schools shall have available sterilizers or sanitizers which shall be used in accordance with the manufacturer's instructions. All instruments, including disposable equipment shall be kept clean and sanitized.

C. Combs and Brushes. Combs and brushes must be thoroughly cleaned with soap and water after each patron has been served and then immersed in a solution of one part water to 10 parts of sodium hypochlorite (bleach), EPA hospital grade disinfectant or some equally efficient disinfectant used in accordance with the manufacturer's instructions.

D. Shampoo Boards. Shampoo boards and bowls must be kept clean at all times.

E. Towels. Towels used for patrons shall be clean and freshly laundered and kept in a closed cabinet designated for clean towels only.

F. Soiled Towels. Soiled towels should be kept in a container.

G. Hand Washing. Cosmetologists shall wash their hands with soap and fresh water immediately before serving each patron.

H. Fluids and Powders. Fluids and powders shall be applied to a patron from a shaker type dispenser so as to prevent the bottle or shaker from contacting the client.

I. Structure. Floor, walls and fixtures must be kept in a clean and sanitary condition at all times.

J. Flooring. Carpet or floor cloth shall not be used in any work area.

K. Animals. No facility licensed by the board shall permit any live animal to be present on the premises except for an animal certified to assist a disabled person.

L. Water. All facilities shall have an adequate supply of both hot and cold running water and a sufficient number of wash basins on the facility premises.

M. Clippings. Hair clippings on the floor must be swept up after each client and shall be disposed of in a covered container.

N. Tools and Implements. All tools and implements which come in direct contact with a client and shall be sterilized, sanitized or disposed of after each use.

O. Storage. New and/or sanitized and cleaned tools and implements shall be stored separately from all others.

P. Work Stations. Storage cabinets, work stations and vanities shall be cleaned after each client.

Q. Blood Spill Kits. Blood spill kits must be available in every salon.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:329 (March 2003).

§703. Salons Located in Buildings Housing Other Facilities

A. Separate Room. No salon shall be established or maintained in a home or in connection with a business where food is handled unless a separate room is provided therefore.

B. Home Salon. Any salon in a home or in connection with a place where food is handled shall be separated from the living quarters or place where food is handled by walls or other permanent structures. There shall be separate outside entrances leading to the salon and to the living quarters or any place where food is handled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9)

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:330 (March 2003).

§705. Equipment Required in Salons Offering Hair Dressing Services

A. Equipment. Hair dressing shall not be performed in any beauty shop or salon unless the following items are available for use:

1. shampoo bowl for shop purpose only;
2. utility chair;
3. dryer;
4. covered waste container;
5. cabinet for accessories;
6. cabinet for clean linens;
7. container for soiled linens; and
8. wet and dry sterilizer for each occupied station or electric sterilizer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:330 (March 2003).

§707. Equipment Required in Salons Offering Esthetics Services

A. Equipment. Esthetics shall not be performed in any salon unless the following items are available for use:

1. flexible treatment bed or chair, capable of multi-positions for customer and skin care therapist;
2. stool for therapist;
3. trolleys or utility table, large enough to support cosmetic preparations and bowls;
4. small sterilizer for implements (i.e., tweezers, extractors, small equipment);
5. magnifying lamp for skin analysis (five dioptic recommended);
6. closed storage cabinet with a wash basin or sink for hand washing and towel storage;
7. facial steamer;
8. the following basic implements:
 - a. two stainless steel bowls;
 - b. covered waste bin;
 - c. non-sterile cotton pads, cloths, or disposable sponges;
 - d. towels, clinic gowns, head bands, washable blanket;
 - e. tissue, cotton tipped swabs, spatulas, gauze;
 - f. containers with lids for storage or disposable items;
 - g. tweezers;
 - h. sheets;
 - i. mask brushes;
 - j. cleansers, astringents, treatment creams; and
 - k. lancets, leak and puncture proof container for disposal of lancets, and gloves (disposable PVC).

B. Waxing. If waxing is offered, the following items shall be available for use:

1. wax pot and wax;
2. disposable applicators;
3. wax remover for skin and ointment;
4. cleanser for skin;
5. wax equipment cleanser; and
6. comb and scissors for trimming.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:330 (March 2003).

§709. Equipment Required in Salons Offering Manicuring Services

A. Manicuring Equipment. Manicuring shall not be performed in any salon unless the following items are available for use:

1. manicuring sterilizer;
2. covered waste containers;
3. cabinet for accessories;
4. cabinet for clean linens;
5. container for soiled linens;
6. manicuring table; and
7. lavatory with hot and cold running water.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:575(A)(9).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:330 (March 2003).

§711. Procedures for Esthetics Services

A. Exfoliation. Cosmetologists, estheticians and persons authorized to perform microdermabrasion shall not exfoliate or perform any procedure which will affect the dermis or skin below the epidermis. Cosmetologists, estheticians and persons authorized to perform microdermabrasion shall only exfoliate or perform services which affect the epidermis.

B. Procedures. Cosmetologists performing esthetics services, estheticians and persons authorized to perform microdermabrasion shall:

1. wash his or her hands using an antimicrobial skin wash prior to coming into contact with any client;
2. wash all implements with antimicrobial wash prior to sanitization or sterilization;
3. wash all towels and linens in disinfecting detergent; and
4. place all used disposable items in a closed, bagged, trash container.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:331 (March 2003).

§713. Procedures for Manicuring Services

A. All manicurists and cosmetologists performing manicuring services shall:

1. wash his or her hands using antimicrobial wash prior to performing any manicuring service;
2. require the customer to wash area on which service is to be performed with an antimicrobial wash prior to any service being performed;
3. wash all implements with antimicrobial wash prior to sterilization;
4. wash all towels and linens in disinfecting detergent; and
5. place all used disposable items in a closed, bagged, trash container.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:331 (March 2003).

§715. Disposable Equipment

A. The following items shall be considered disposable:

1. facial tissues;
2. sponges;
3. cloths;
4. extraction tissue;
5. lancets;
6. gloves;
7. wax strips and sticks;
8. tissues;
9. cotton pads; and
10. emery boards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:331 (March 2003).

Chapter 9. Inspections

§901. Access of Inspectors

A. Access. Inspectors and employees of the board are entitled to enter any premises licensed by the board, to interview any person present at the facility and to examine all work records pertaining to the cosmetology profession during the regular business hours of the facility.

B. Information. Any information gained by an inspector or employee of the board during an inspection shall remain confidential unless the information is to be offered as evidence in an administrative hearing or court proceeding concerning a license issued by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:575(A)(10).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:331 (March 2003).

§903. Violations

A. Citations. Inspectors may issue citations for violations and impose and collect fines for any violation of the Cosmetology Act or any rule or regulation adopted by the board provided that the licensee waives his or her right to a formal hearing before the board.

B. Violation Notice. Inspectors must present the licensee with the a duplicate copy of the violation notice.

C. Evidence. Any licensee who disputes the contents of an inspector's report may submit contrary evidence in writing to the board or present evidence to the board at the assigned hearing date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(B)(5)

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:331 (March 2003).

Chapter 11. Special and Temporary Permits

§1101. Special Permits

A. Special Permits. The board shall issue the following special permits to any person who meets the requirements set forth in the board's rules:

1. alternative hair design;
2. microdermabrasion;
3. shampoo assistants; and
4. make-up artists.

B. All special permits issued by the board shall be valid for a period of one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(9).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:331 (March 2003).

§1103. Special Permit for Microdermabrasion

A. Microdermabrasion. Beginning April 1, 2003 a special permit authorizing the performance of microdermabrasion using a nonprescriptive device shall be issued to:

1. a licensed esthetician; or
2. a licensed cosmetologist or electrologist who presents satisfactory evidence of completion of at least 200 hours of study in esthetics or evidence of practicing esthetics for a period of at least one year.

B. Training. In addition to the requirements set forth in Subsection A, the applicant must present satisfactory

evidence of completion of a training course on the operation of the microdermabrasion equipment to be used.

C. Proof Required. For the purpose of this Section, evidence of practicing esthetics shall be demonstrated by presenting the following:

1. copies of W-2's or 1099's and a sworn statement by the issuer indicating that the individual worked the equivalent of 25 per week for at least 48 weeks during a period of one year; or

2. copies of income tax returns, if self-employed, and sworn statements from at least five clients indicating that esthetics services were performed by the applicant.

D. Permit Required. No cosmetologist or esthetician may perform microdermabrasion without a current special permit authorizing the performance of microdermabrasion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:331 (March 2003).

§1105. Special Permit for Alternative Hair Design

A. Alternative Hair Design. Beginning April 1, 2003, a special permit authorizing the practice of alternative hair design shall be issued to any person who presents evidence to the board of completion of the alternative hair design curriculum and successfully passes the exam administered by the board.

B. Grandfathering. Notwithstanding the provisions of Subsection A, any person who applies for a special permit to practice alternative hair design on or before June 30, 2003 who satisfactorily demonstrates two years of experience in the practice of alternative hair design shall be issued a permit without the necessity of taking the alternative hair exam.

C. For the purpose of this Section experience shall be demonstrated by any of the following:

1. copies of W-2's or 1099's and a sworn statement by the issuer indicating that the individual worked the equivalent of 25 per week for at least 48 weeks per year during a two year period in the practice of alternative hair design;

2. copies of income tax returns, if self-employed, and sworn statements from at least five clients indicating that alternative hair design services were performed by the applicant;

3. certification from a school indicating that the applicant has received at least 400 hours of instruction in alternative hair design which were completed prior to October 1, 2002; or

4. documentation indicating that the applicant has been a member of a trade association which has as its stated purpose the education of individuals in a field which includes alternative hair design for at least two years prior to January 1, 2003.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:575(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:332 (March 2003).

§1107. Alternative Hair Design Curriculum

A. Curriculum. The alternative hair design curriculum shall consist of at least 1000 hours of instruction which shall include but not be limited to the following.

1. History Overview
 - a. Ancient Origins of Braiding
 - b. Traditional Multi-Cultural Braid Styles
 - c. The Multi-Cultural American Hair Experience
2. Bacteriology and Sanitation
 - a. Types of Bacteria
 - b. Growth and Reproduction of Bacteria
 - c. Prevention of Infection and Infection Control
 - d. Use of Antiseptics, Disinfectants and Detergents
3. Client Consultation
4. Hair Types and Hair Structure
5. Scalp Diseases and Disorders
6. Shampoos, Conditioners, Herbal Treatments and Rinses for Synthetic Hair Only
7. Braiding and Sculpting
8. Louisiana Cosmetology Act and Rules and Regulations

AUTHORITY NOTE: Promulgated in accordance with R.S.37:575(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:332 (March 2003).

§1109. Special Permit for Shampoo Assistants

A. Shampoo Assistants. Beginning January 1, 2003, a special permit authorizing the performance of shampooing shall be issued to any person who:

1. applies on or before June 30, 2003 and presents evidence to the board of six months of continuous employment as an assistant to a licensed cosmetologist prior to January 1, 2003; or

2. has successfully completed at least 40 hours of training in shampooing, draping and rinsing and passed the test administered by the board.

B. Grandfathering. For the purpose of this Section continuous employment shall be demonstrated by copies of W-2's or 1099's and a sworn statement by the issuer indicating that the individual worked the equivalent of 25 per week for at least 24-weeks per year during a 6-month period as a shampoo assistant under the supervision of a licensed cosmetologist.

C. Cosmetologist. No person holding current cosmetology license shall be required to obtain a special permit to shampoo.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:332 (March 2003).

§1111. Special Permit for Make-Up Application

A. Make-Up Application. Beginning April 1, 2003, a special permit authorizing the practice of application of cosmetic preparations or make-up shall be issued to any person who presents evidence to the board of completion of 40 hours of training in the application of cosmetic preparations or make-up.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:332 (March 2003).

§1113. Temporary Permits

A. Permits. The board shall issue permits to persons who wish to participate in hair shows, beauty pageants or

demonstrations who are licensed to practice cosmetology, esthetics or manicuring in another state.

B. Applications. Applications for temporary permits shall be submitted to the board for review not less than 30 days prior to the requested period of the permit.

C. The 40-hour curriculum for make-up artists shall include a minimum of:

1. two hours of study if composition of facial cosmetics;

2. two hours of study and two hours of practical work in recognition of facial shapes;

3. two hours of study make-up cosmetics and purpose;

4. three hours of study and 12 hours of practical work in make-up application;

5. three hours of study and 10 hours of practical work in procedure for corrective make-up;

6. one hour of study and two hours of practical work in procedure for evening make-up;

7. one hour of study in safety and sanitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:332 (March 2003).

§1115. Special Permits

A. Transfer. Hours of study used to obtain any special permit authorized by this Chapter shall not be counted toward the number of hours necessary to receive any other license issued by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:333 (March 2003).

Chapter 13. Disciplinary Proceedings

§1301. Informal Proceedings

A. Notice. If the board receives information indicating that a licensee has violated the Cosmetology Practice Act or the rules and regulations adopted by the board, the executive director shall provide the licensee with a written informal notice.

B. Conference. The licensee shall respond in writing to the board's informal notice within 10 days of receipt by providing the board with a written statement containing any information related to the allegations of the informal notice which would show compliance with all requirements for retention of his or her license. In lieu of providing a written statement, the licensee may request an informal conference with the executive director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:333 (March 2003).

§1303. Formal Proceedings

A. Complaint. In the event that the matter is not resolved during the informal hearing, the executive director shall file a formal complaint which shall be forwarded to the licensee at the address on file with the board.

B. Hearing. No hearing shall be conducted prior to 20 business days following the filing of the formal complaint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:333 (March 2003).

§1305. Procedures

A. Hearings. All hearings conducted before the board shall be in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:333 (March 2003).

Chapter 15. Declaratory Orders

§1501. Declaratory Orders

A. Application. Any person desiring an interpretation of the Cosmetology Act or the rules promulgated in accordance with the Cosmetology Act shall make application to the board on a form provided by the board.

B. Hearing. An application for a declaratory order shall be heard within 60 days of receipt.

C. Ruling. The board shall issue a ruling on an application for declaratory order within 30 days of the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:962.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:333 (March 2003).

Chapter 17. Miscellaneous Provisions

§1701. Public Comments at Board Meetings

A. Comments. A public comment period shall be held at or near the beginning of each board meeting. Persons desiring to present public comments shall notify the chairman or the executive director no later than the beginning of the meeting. To assure that an opportunity is afforded all persons who desire to make public comments, the chairman shall inquire at the beginning of the meeting if there are additional persons who wish to comment. The chairman shall allot the time available for the public comments in an equitable manner among those persons desiring to comment, limiting each person to a maximum of three minutes, with the total comment period not to exceed 30 minutes. Each person making public comments shall identify himself and the group, organization or company he represents, if any.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:5(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:333 (March 2003).

§1703. Services Performed at the Residence of a Disabled Person

A. Services. A cosmetologist, esthetician or manicurist may perform services at the residence of a client who is chronically ill or disabled.

B. Requirements. A client shall be considered chronically ill or disabled if:

1. the client provides the cosmetologist, esthetician or manicurist with a physician's certificate indicating that the client is chronically ill or disabled;

2. the client provides the cosmetologist, esthetician or manicurist with evidence that the client has been awarded Social Security Disability or Supplemental Security Income Disability Benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(15).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:333 (March 2003).

§1705. Destruction of Premises

A. Inspection. When any school or salon made unusable by virtue of storm, fire, flood or any other act of God or by virtue of expropriation proceedings and the premises selected to permanently replace such facility will be inspected without an inspection fee, provided that such facility is replaced within six months of its destruction.

B. Reconstruction. Any school or salon which is repaired or replaced in its exact location will be acceptable provided that it is reconstructed in no less size that existed prior to its destruction.

C. Temporary Premises. When temporary premises are necessary for the continuance of operation during the repair, the board member for the area involved may approve such premises provided such premises are temporary with a specific termination date set forth for their use and further provided that such premises are sanitary and sufficient for use during the stated time period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:334 (March 2003).

§1707. Remodeling

A. Application. When any school or salon desires to remodel its premises, application shall be made to the board.

B. Temporary Premises. If remodeling requires the use of temporary premises for the continuance of operation during remodeling, the board member for the area may approve such premises as are adequate provided such premises are sanitary and sufficient for use during the stated time period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:334 (March 2003).

§1709. Picture Identification

A. All licensee and permittees shall have in their possession a picture identification at any time at which a service is being performed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:334 (March 2003).

§1711. NSF Checks

A. Late Fee. If a check is received for the renewal of license which is returned to the board by the bank due to non-sufficient funds and is not validated by the licensee or permittee by the expiration date will be responsible for payment of a late fee in addition to any bank charge imposed on the board.

B. Restoration. If a check is received for restoration of a license which is returned to the board by the bank due to non-sufficient funds, the applicant's license shall be subject to revocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:334 (March 2003).

§1713. Cheating on Examinations

A. Eligibility. Any person who cheats on an examination administered by the board shall be disqualified from taking any examination administered by the board for a period of at least three months. Any person who cheats on a subsequent examination shall be ineligible to register for any examination administered by the board without board approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:575(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Board of Cosmetology, LR 29:334 (March 2003).

Saraphia T. Wilson
Executive Director

0303#023

RULE

Office of the Governor Division of Administration Office of Group Benefits

EPO Plan of Benefits C Accumulation of Deductibles, Co-Insurance, and Out-of-Pocket Expenses (LAC 32:V.301, 601, 701 and 703)

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the EPO plan document relative to the accumulation of deductibles, co-insurance and out-of-pocket expenses. The reason for this action is to align the accumulation of deductibles, co-insurance, and out-of-pocket expenses with the plan year (July 1- June 30) rather than the calendar year (January 1-December 31).

Accordingly, OGB has amended the following Sections to become effective upon promulgation.

Title 32

EMPLOYEE BENEFITS

Part V. Exclusive Provider (EPO) Plan of Benefits Chapter 3. Medical Benefits

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

A. - A.23. ...

24. not subject to the annual deductible:

a. one pap test for cervical cancer per *plan year*;

b.i. ...

ii. one mammogram during a period of two years for any person who is 40-49 years of age, or more frequently if recommended by a physician;

iii. ...

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 25:1810 (October 1999), LR 28:478 (March 2002), LR 29:334 (March 2003).

Chapter 6. Definitions

§601. Definitions

Accidental Injury Ca condition occurring as a direct result of a traumatic bodily injury sustained solely through accidental means from an external force. With respect to injuries to teeth, the act of chewing does not constitute an injury caused by external force.

Benefit Payment Cpayment of eligible expenses incurred by a covered person during a plan year at the rate shown under percentage payable in the schedule of benefits.

Deductible Cthe amount of covered charges for which no benefits will be paid. Before benefits can be paid in a plan year, a covered person must meet the deductible shown in the schedule of benefits.

Family Unit Limit Cthe dollar amount shown in the schedule of benefits has been incurred by three members of a family unit toward their plan year deductibles. The deductibles of all additional members of that family unit will be considered satisfied for that year.

Plan Year Cthat period commencing at 12:01 a.m., July 1, standard time, at the address of the employee, or the date the covered person first becomes covered under the plan and continuing until 12:01 a.m., standard time, at the address of the employee on the next following July 1. Each successive plan year will be the period from 12:01 a.m., July 1, standard time, at the address of the employee to 12:01 a.m., the next following July 1.

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 25:1820 (October 1999), LR 29:335 (March 2003).

Chapter 7. Schedule of Benefits

§701. Comprehensive Medical Benefits

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

	Non-EPO	EPO
Lifetime Maximum for all benefits except outpatient prescription drug benefits per person	\$2,000,000	
Lifetime Maximum for all Outpatient Prescription Drug Benefits per person	\$250,000	

1. Deductibles

	Non-EPO	EPO
Inpatient deductible per day, maximum of 5 days per admission (waived for admissions at PPO hospitals)	\$50	0
Emergency room charges for each visit unless the covered person is hospitalized immediately following emergency room treatment (prior to and in addition to plan year deductible)	\$150	0

Professional and other eligible expenses, employees and dependents of employees, per person, per plan year Family unit maximum (3 individual deductibles)		
Professional and other eligible expenses, retirees and dependents of retirees, per person, per plan year Family unit maximum (3 individual deductibles)		
Professional and other eligible expenses, other than physician office visits, per person, per plan year Family unit maximum (3 individual deductibles)	\$300	0

2. 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 incurred at a non-PPO/non-EPO When not available at an EPO/PPO or out of state	80%	n/a
Eligible expenses in excess of \$10,000* per person per plan year	100%	n/a
Eligible expenses at EPO are based upon contracted rates.		
Eligible expenses at non-EPO 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.		

- 3. ...
- 4. Prescription Drugs (not subject to deductible)

Network Pharmacy	Member pays 50% of drug costs at point of purchase
Maximum co-payment	\$50 per prescription dispensed
Out-of-pocket threshold	\$1,200 per person, per plan year
Co-Pay after Threshold is Reached	
Brand	\$15
Plan pays balance of eligible expense	

B. - E ...

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 25:1823 (October 1999), LR 26:487 (March 2000), LR 27:717 (May 2001), LR 27:1886 (November 2001), LR 28:476 (March 2002), LR 29:335 (March 2003).

§703. Mental Health and Substance Abuse

NOTE: Requires prior approval of services.

A. Deductibles

Per person per Plan Year (Separate from Comprehensive Medical Benefits deductible)	\$ 200
Inpatient (Maximum 5 days; \$250 per stay)	\$ 50 per day

B. Benefits

80% of the first \$5,000 of eligible expenses
100 % of eligible expenses over \$5,000 until the Lifetime Maximum for all plan benefits is reached
Up to a maximum of 45 inpatient days per person, per plan year
Up to a maximum of 52 intensive outpatient visits per person, per plan year, inclusive of the outpatient program

NOTE: Two days of partial hospitalization or two days of residential treatment center hospitalization may be traded for each inpatient day of treatment that is available under the 45-day Plan Year maximum for inpatient treatment. A residential treatment center is a 24-hour mental health or substance abuse, non-acute care treatment setting for active treatment interventions directed at the amelioration of the specific impairments that led to admission. Partial hospitalization is a level of care where the patient remains in the hospital less than 24 hours.

1-2 ...

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 25:1824 (October 1999), LR 29:335 (March 2003).

A. Kip Wall
Chief Executive Officer

0303#080

RULE

Office of the Governor Division of Administration Office of Group Benefits

EPO Plan of Benefits Effective Dates and Limitations of Coverage for Pre-Existing Conditions (LAC 32:V.101)

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the EPO plan document relative to effective dates of coverage and the application of pre-existing condition limitations. This action is to conform the plan to requirements of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) and regulations promulgated pursuant thereto.

Accordingly, OGB has amended the following Section to become effective upon promulgation.

Title 32

EMPLOYEE BENEFITS

Part V. Exclusive Provider (EPO) Plan of Benefits

Chapter 1. Eligibility

§101. Persons to be Covered

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

A. - A.3. ...

4. Re-Enrollment, Previous Employment

a. An employee whose employment terminated while covered, who is re-employed within 12 months of the date of termination will be considered a re-enrollment, previous employment applicant. A re-enrollment previous employment applicant will be eligible for only that classification of coverage (employee, employee and one

dependent, family) in force on the effective date of termination.

b. If an employee acquires an additional dependent during the period of termination, that dependent may be covered if added within 30 days of re-employment.

5. Members of Boards and Commissions. Except as otherwise provided by law, members of boards or commissions are not eligible for participation in the plan. This Section does not apply to members of school boards or members of state boards or commissions who are defined by the participant employer as full time employees.

6. Legislative Assistants. Legislative assistants are eligible to participate in the plan if they are declared to be full-time employees by the participant employer and have at least one year of experience or receive at least 80 percent of their total compensation as legislative assistants.

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

a. The terms of the following paragraphs apply to all eligible employees whose employment with a participant employer commences on or after July 1, 2001, and to the dependents of such employees.

b. The program may require that such applicants complete a "Statement of Physical Condition" and an "Acknowledgement of Pre-Existing Condition" form.

c. Medical expenses incurred during the first 12 months following enrollment of employees and/or dependent will not be considered as covered medical expenses if they are in connection with a disease, illness, accident, or injury for which medical advice, diagnosis, care, or treatment was recommended or received during the six months immediately prior to the enrollment date. The provisions of this Section do not apply to pregnancy.

d. If the covered person was previously covered under a Group Health Plan, Medicare, Medicaid or other creditable coverage as defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), credit will be given for previous coverage that occurred without a break of 63 days or more for the duration of prior coverage against the initial 12-month period. Any coverage occurring prior to a break in coverage 63 days or more will not be credited against a pre-existing condition exclusion period.

B. ...

C. Dependent Coverage

1. Eligibility. A dependent of an eligible employee or retiree will be eligible for dependent coverage on the later of the following dates:

- the date the employee becomes eligible;
- the date the retiree becomes eligible;
- the date the covered employee or covered retiree acquires a dependent.

2. Effective Dates of Coverage

a. Dependents of Employees. Coverage for dependents will be effective on the date the employee becomes eligible for dependent coverage.

b. Dependents of Retirees. Coverage for dependents of retirees will be effective on the first day of the month following the date of retirement if the employee and his dependents were covered immediately prior to retirement. Coverage for dependents of retirees first becoming eligible for dependent coverage following the date of retirement will be effective on the date of marriage for new spouses, the

date of birth for newborn children, or the date acquired for other classifications of dependents, if application is made within 30 days of the date of eligibility.

D. - D.2. ...

3. Medical expenses incurred during the first 12 months following enrollment of *employee* and/or dependent will not be considered as covered medical expenses if they are in connection with a disease, illness, accident, or injury for which medical advice, diagnosis, care or treatment was recommended or received during the six-month period immediately prior to the enrollment date. The provisions of this Section do not apply to pregnancy

D.4 - I. ...

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 25:1804 (October 1999), LR 27:718 (May 2001), LR 29:336 (March 2003).

A. Kip Wall
Chief Executive Officer

0303#043

RULE

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

**EPO Plan of Benefits C Prescription Drugs
(LAC 32:V.325 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), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the EPO plan document relative to prescription drugs, increasing the maximum coinsurance amount from \$40 to \$50 per prescription and increasing the out of pocket threshold from \$1,000 to \$1,200. The reason for this action is to fairly distribute the increasing cost of prescription drugs benefits among the plan and those participants who utilize the benefit.

Accordingly, OGB has amended the following Sections to become effective July 1, 2003.

Title 32

EMPLOYEE BENEFITS

Part V. Exclusive Provider (EPO) Plan of Benefits

Chapter 3. Medical Benefits

§325. Prescription Drug Benefits

A. - C. ...

1. Upon presentation of the Group Benefits Program Health Benefits Identification Card at a network pharmacy,

the Plan Member will be responsible for payment of 50 percent of the cost of the drug, up to a maximum of \$50 dollars per prescription dispensed. The plan will pay the balance of the eligible expense for prescription drugs dispensed at a network pharmacy. There is a \$1200 per person per Plan Year out-of-pocket threshold for eligible prescription drug expenses. Once this threshold is reached, that is, the Plan Member has paid \$1200 of co-insurance/co-payments for eligible prescription drug expenses, the Plan Member will be responsible for a \$15 co-pay for brand name drugs, with no co-pay for generic drugs. The plan will pay the balance of the eligible expense for prescription drugs dispensed at a network pharmacy.

2. - 5.b. ...

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 \$50 per prescription dispensed.

ii. For a supply of 35-68 days the plan member will be responsible for payment of 50 percent of the cost of the drug, up to a maximum of \$100 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 \$150 per prescription dispensed.

6. - 7. ...

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 25:1815 (October 1999), LR 27:717, 718, 719 (May 2001), LR 27:1886 (November 2001), LR 29:337 (March 2003).

Chapter 7. Schedule of Benefits C EPO

§701. Comprehensive Medical Benefits

A. - A.3. ...

4. Prescription Drugs (not subject to deductible)

Network Pharmacy	Member pays 50% of drug costs at point of purchase
Maximum co-payment	\$50 per prescription dispensed
Out-of-pocket threshold	\$1,200 per person, per <i>plan year</i>
Co-Pay after Threshold is Reached	
Brand	\$15
Generic	No co-pay
Plan pays balance of eligible expense	

B. - E. ...

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 25:1823 (October 1999), LR 26:487 (March 2000), LR 27:717, 719 (May 2001), LR 27:1886 (November 2001), LR 28:476 (March 2002), LR 29:337 (March 2003).

A. Kip Wall
Chief Executive Officer

0303#044

RULE

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

**EPO Plan of Benefits C Retiree Coverage
(LAC 32:V.101)**

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the EPO Plan Document relative to retiree coverage, providing that retirees who return to active employment will continue to be considered as retirees for the purposes participation in OGB plans. The reason for this action is to establish consistent administration of benefits for retirees in light of recent legislation that has resulted in an increase in the number of retirees returning to active employment.

Accordingly, OGB has amended the following Section to become effective upon promulgation.

Title 32

EMPLOYEE BENEFITS

Part V. Exclusive Provider (EPO) Plan of Benefits

Chapter 1. Eligibility

§101. Persons to be Covered

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

- A. ...
- B. Retiree Coverage
 - 1. Eligibility

a. Retirees of participant employers are eligible for retiree coverage under this plan.

b. An employee retired from a participant employer may not be covered as an employee of another participant employer.

c. Retirees are not eligible for coverage as overdue applicants.

2. Effective Date of Coverage

a. Retiree coverage will be effective on the first day of the month following the date of retirement, if the retiree and participant employer have agreed to make and are making the required contributions.

C. - H. ...

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 25:1804 (October 1999), LR 27:718 (May 2001), LR 29:338 (March 2003).

A. Kip Wall
Chief Executive Officer

0303#045

RULE

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

**EPO Plan of Benefits C Well-Adult Care Expenses
(LAC 32:V.301 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), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the EPO Plan Document relative to well adult care expenses. The changes are intended to clarify existing provisions of the plan relative to benefits for well-adult care expenses.

Accordingly, OGB has amended the following Sections to become effective upon promulgation.

Title 32

EMPLOYEE BENEFITS

Part V. Exclusive Provider (EPO) C Plan of Benefits

Chapter 3. Medical Benefit

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

A. - A.23.b.ii. ...

c. well-adult care expenses not subject to the annual deductible, but limited to a maximum benefit of \$200.00:

- i. age 16 until age 40 C \$200.00 during a 3-year period;
- ii. age 40 until age 50 C \$200.00 during a 2-year period;
- iii. age 50 and over C \$200.00 during a 1-year period;

24. - 32. ...

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1830 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:480 (March 2002), LR 29:338 (March 2003).

Chapter 7. Schedule of Benefits C EPO

§701. Comprehensive Medical Benefits

A. - B. ...
C. Well Care

1. - 2. ...

3. Well Adult (No deductible C limited to a maximum benefit of \$200)

Age 16-39 - \$200 during a 3-year period	² See % payable below
Age 40-49 - during a 2-year period	² See % payable below
Age 50 and over - \$200 during a 1-year period	² See % payable below

D. - E. ...

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees' Group Benefits Program, LR 25:1823 (October 1999), amended LR 26:487 (March 2000), LR 27:717 and 719 (May 2001), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 27:1886 (November 2001), LR 28:476 (March 2002), LR 28:2342, 2343 (November 2002), repromulgated LR 28:2509 (December 2002), amended LR 29:338 (March 2003).

A. Kip Wall
Chief Executive Officer

0303#046

RULE

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

PPO Plan of Benefits Accumulation of Deductibles,
Co-Insurance and Out-of-Pocket Expenses
(LAC 32:III.301, 321, 601, 701 and 703)

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO Plan Document relative to the accumulation of deductibles, co-insurance and out-of-pocket expenses. The reason for this action is to align the accumulation of deductibles, co-insurance, and out-of-pocket expenses with the plan year (July 1- June 30) rather than the calendar year (January 1-December 31).

Accordingly, OGB has amended the following Sections to become effective upon promulgation.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 3. Medical Benefits

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

A. - A.23. - 23.c.iii. ...

24. not subject to the annual deductible:

a. one pap test for cervical cancer per *plan year*;

b. - b.i ...

ii. one mammogram during a period of two years for any person who is 40-49 years of age, or more frequently if recommended by a physician;

24.b.iii. - 32. ...

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group

Benefits Program, LR 25:1830 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:480 (March 2002)), LR 29:339 (March 2003).

§321. Preferred Provider Program

A. ...

1. If a *covered person* obtains medical services or *hospital* services from an eligible provider who has agreed to provide the services at a mutually agreed upon discount from the maximum medical *fee schedule* or at a per diem or discounted rate from a *hospital*, the *program* will pay, following satisfaction of all applicable *deductibles*, 90 percent of the first \$10,000 of eligible expenses and 100 percent of eligible expenses, except prescription drugs, in excess of \$10,000 for the remainder of the *plan year*, subject to the maximum amount as specified in the schedule of benefits.

2. - 2.a. ...

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 25:1835 (October 1999), amended LR 27:722 (May 2001), LR 29:339 (March 2003).

Chapter 6. Definitions

§601. Definitions

*Accidental Injury*Ca condition occurring as a direct result of a traumatic bodily injury sustained solely through accidental means from an external force. With respect to injuries to teeth, the act of chewing does not constitute an injury caused by external force.

*Benefit Payment*Cpayment of eligible expenses incurred by a *covered person* during a *plan year* at the rate shown under percentage payable in the schedule of benefits.

*Deductible*Cthe amount of covered charges for which no benefits will be paid. Before benefits can be paid in a *plan year*, a *covered person* must meet the *deductible* shown in the schedule of benefits.

*Family Unit Limit*Cthe dollar amount shown in the schedule of benefits has been incurred by three members of a family unit toward their *plan year deductibles*. The *deductibles* of all additional members of that family unit will be considered satisfied for that year.

*Plan Year*Cthat period commencing at 12:01 a.m., July 1, standard time, at the address of the *employee*, or the date the *covered person* first becomes covered under the plan and continuing until 12:01 a.m., standard time, at the address of the *employee* on the next following July 1. Each successive *plan year* will be the period from 12:01 a.m., July 1, standard time, at the address of the *employee* to 12:01 a.m., the next following July 1.

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 25:1840 (October 1999), amended LR 29:339 (March 2003).

Chapter 7. Schedule of Benefits–PPO

§701. Comprehensive Medical Benefits

A. ...

1. Deductibles

Inpatient deductible per day, maximum of 5 days per admission (waived for admissions at PPO hospitals)	\$ 50
Emergency room charges for each visit unless the covered person is hospitalized immediately following emergency room treatment (prior to and in addition to plan year deductible)	\$150
Professional and other eligible expenses, employees and dependents of employees per person, per plan year	\$500 \$300
Family unit maximum (3 individual deductibles)	

2. Percentage Payable after Satisfaction of Applicable Deductibles

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

3. ...

4. Prescription Drugs (not subject to deductible)

Network Pharmacy	Member pays 50% of drug costs at point of purchase
Maximum co-payment	\$50 per prescription dispensed
Out-of-pocket threshold	\$1,200 per person, per plan year
Co-Pay after Threshold is Reached	
Brand	\$15
Generic	No co-pay
Plan pays balance of eligible expense	

B. - E. ...

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 LR 26:488 (March 2000), LR 27:719 (May 2001), LR 27:720 (May 2001), LR 27:722 (May 2001), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 27:1887 (November 2001), LR 28:2345 (November 2002), LR 29:340 (March 2003).

§703. Mental Health Substance Abuse

NOTE: Requires prior approval of services.

A. Deductibles

Per person per plan year (Separate from Comprehensive Medical Benefits deductible)	\$ 200
Inpatient (Maximum 5 days; \$250 per stay)	\$ 50 per day

B. Benefits

80% of the first \$5,000 of eligible expenses
100 % of eligible expenses over \$5,000 until the Lifetime Maximum for all Plan benefits is reached
Up to a maximum of 45 inpatient days per person, per plan year
Up to a maximum of 52 outpatient visits per person, per plan year, inclusive of the intensive outpatient program.

Note: Two days of partial hospitalization or two days of residential treatment center hospitalization may be traded for each inpatient day of treatment that is available under the 45-day plan year maximum for inpatient treatment. A residential treatment center is a 24-hour mental health or substance abuse, non-acute care treatment setting for active treatment interventions directed at the amelioration of the specific impairments that led to admission. Partial hospitalization is a level of care where the patient remains in the hospital less than 24 hours.

Expenses incurred for emergency services will only be reimbursed if, after review, the services are determined to be a life-threatening psychiatric emergency resulting in an authorized mental health or substance abuse admission within 24 hours to an inpatient, partial, or intensive outpatient level care. Non-emergent psychiatric or substance abuse problems treated in the emergency room will not be eligible for reimbursement.

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 25:1844 (October 1999), LR 29:340 (March 2003).

A. Kip Wall
Chief Executive Officer

0303#047

RULE

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

PPO Plan of Benefits Effective Dates and Limitations of Coverage for Pre-Existing Conditions (LAC 32:III.101)

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate Rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO Plan Document relative to effective dates of coverage and the application of pre-existing condition limitations.

This action is to conform the plan to requirements of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) and regulations promulgated pursuant thereto.

Accordingly, OGB has amended the following Section to become effective upon promulgation.

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. - A.3.c. ...

4. Re-Enrollment, Previous Employment

a. An *employee* whose *employment* terminated while covered, who is re-employed within 12 months of the date of termination will be considered a re-enrollment, previous *employment* applicant. A re-enrollment previous *employment* applicant will be eligible for only that classification of coverage (*employee*, *employee* and one *dependent*, *family*) in force on the effective date of termination.

b. If an *employee* acquires an additional *dependent* during the period of termination, that *dependent* may be covered if added within 30 days of re-employment.

5. Members of Boards and Commissions. Except as otherwise provided by law, members of boards or commissions are not eligible for participation in the *plan*. This Section does not apply to members of school boards or members of state boards or commissions who are defined by the *participant employer* as full time *employees*.

6. Legislative Assistants. Legislative Assistants are eligible to participate in the *plan* if they are declared to be full-time *employees* by the *participant employer* and have at least one year of experience or receive at least 80 percent of their total compensation as Legislative Assistants.

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

a. The terms of the following paragraphs apply to all eligible *employees* whose *employment* with a *participant employer* commences on or after July 1, 2001, and to the *dependents* of such *employees*.

b. The program may require that such applicants complete a "Statement of Physical Condition" and an "Acknowledgement of Pre-Existing Condition" form.

c. Medical expenses incurred during the first 12 months following enrollment of the *employees* and/or *dependent* will not be considered as covered medical expenses if they are in connection with a disease, illness, accident, or injury for which medical advice, diagnosis, care, or *treatment* was recommended or received during the six months immediately prior to the enrollment date. The provisions of this Section do not apply to pregnancy.

d. If the covered person was previously covered under a *group health plan*, Medicare, Medicaid or other creditable coverage as defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), credit will be given for previous coverage that occurred without a break of 63 days or more for the duration of prior coverage against the initial 12-month period. Any coverage occurring

prior to a break in coverage 63 days or more will not be credited against a pre-existing condition exclusion period.

B. - C. 1.c. ...

2. Effective Dates of Coverage

a. Dependents of Employees. Coverage for *dependents* will be effective on the date the *employee* becomes eligible for *dependent* coverage.

b. Dependents of Retirees. Coverage for *dependents* of *retirees* will be effective on the first day of the month following the date of retirement if the *employee* and his *dependents* were covered immediately prior to retirement. Coverage for *dependents* of *retirees* first becoming eligible for *dependent coverage* following the date of retirement will be effective on the date of marriage for new spouses, the date of birth for newborn *children*, or the *date acquired* for other classifications of *dependents*, if application is made within 30 days of the date of eligibility.

D. Pre-Existing Condition (PEC)COverdue Application

1. - 2. ...

3. Medical expenses incurred during the first 12 months following enrollment of the *employee* and/or *dependent* will not be considered as covered medical expenses if they are in connection with a disease, illness, accident, or injury for which medical advice, diagnosis, care or *treatment* was recommended or received during the six-month period immediately prior to the enrollment date. The provisions of this Section do not apply to pregnancy.

E. - I. ...

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 25:1825 (October 1999), amended LR 27:721 (May 2001), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:2343 (November 2002), LR 29:341 (March 2003).

A. Kip Wall
Chief Executive Officer

0303#039

RULE

Office of the Governor
Division of Administration
Office of Group Benefits

PPO Plan of Benefits CPrescription Drugs
(LAC 32:III.323 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), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO plan document relative to prescription drugs, increasing the maximum coinsurance amount from \$40 to \$50 per prescription and increasing the out of pocket threshold from

\$1,000 to \$1,200. The reason for this action is to fairly distribute the increasing cost of prescription drugs benefits among the plan and those participants who utilize the benefit.

Accordingly, OGB has amended the following Sections to become effective July 1, 2003.

**Title 32
EMPLOYEE BENEFITS**

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 3. Medical Benefits

§323. Prescription Drug Benefits

A. - C. ...

1. Upon presentation of the Group Benefits Program Health Benefits Identification Card at a network pharmacy, the *plan member* will be responsible for payment of 50 percent of the cost of the drug, up to a maximum of \$50 dollars per prescription dispensed. The plan will pay the balance of the eligible expense for prescription drugs dispensed at a network pharmacy. There is a \$1200 per person per *plan year* out-of-pocket threshold for eligible prescription drug expenses. Once this threshold is reached, that is, the *plan member* has paid \$1200 of co-insurance/co-payments for eligible prescription drug expenses, the *plan member* will be responsible for a \$15 co-pay for brand name drugs, with no co-pay for generic drugs. The plan will pay the balance of the eligible expense for prescription drugs dispensed at a network pharmacy.

2. - 5.b. ...

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 \$50 per prescription dispensed.

ii. For a supply of 35-68 days the *plan member* will be responsible for payment of 50 percent of the cost of the drug, up to a maximum of \$100 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 \$150 per prescription dispensed.

6. - 7. ...

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 27:1887 (November 2001), LR 29:342 (March 2003).

Chapter 7. Schedule of Benefits C PPO

§701. Comprehensive Medical Benefits

A. - A.3. ...

4. Prescription Drugs (not subject to deductible)

Network Pharmacy	Member pays 50% of drug costs at point of purchase
Maximum co-payment	\$50 per prescription dispensed
Out-of-pocket threshold	\$1,200 per person, per <i>plan year</i>
Co-Pay after Threshold is Reached	
Brand	\$15
Generic	No co-pay
Plan pays balance of eligible expense	

B. - E. ...

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, 723 (May 2001), LR 29:342 (March 2003).

A. Kip Wall
Chief Executive Officer

0303#048

RULE

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

PPO Plan of Benefits C Retiree Coverage
(LAC 32:III.101)

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO plan document relative to retiree coverage, providing that retirees who return to active employment will continue to be considered as retirees for the purposes participation in OGB plans. The reason for this action is to establish consistent administration of benefits for retirees in light of recent legislation that has resulted in an increase in the number of retirees returning to active employment.

Accordingly, OGB has amended the following Section to become effective upon promulgation.

**Title 32
EMPLOYEE BENEFITS**

**Part III. Preferred Provider (PPO) Plan of Benefits
Chapter 1. Eligibility**

§101. Persons to be Covered

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

A. ...

B. Retiree Coverage

1. Eligibility

a. Retirees of participant employers are eligible for retiree coverage under this plan.

b. An employee retired from a participant employer may not be covered as an employee of another participant employer.

c. Retirees are not eligible for coverage as overdue applicants.

2. Effective Date of Coverage

a. Retiree coverage will be effective on the first day of the month following the date of retirement, if the retiree and participant employer have agreed to make and are making the required contributions.

C. - I. ...

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 29:342 (March 2003).

A. Kip Wall
Chief Executive Officer

0303#049

RULE

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

PPO Plan of Benefits Well-Adult Care Expenses
(LAC 32:III.301 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), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of the PPO plan document relative to well adult care expenses. The changes are intended to clarify existing provisions of the plan relative to benefits for well-adult care expenses.

Accordingly, OGB has amended the following Sections to become effective upon promulgation.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 3. Medical Benefits

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

A. - A.23.b.ii. ...

c. well-adult care expenses not subject to the annual deductible, but limited to a maximum benefit of \$200:

- i. age 16 until age 40 \$200 during a 3-year period;
- ii. age 40 until age 50 \$200 during a 2-year period;
- iii. age 50 and over \$200 during a 1-year period;

24. ...

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 25:1830 (October 1999), LR 28:480 (March 2002), LR 29:343 (March 2003).

Chapter 7. Schedule of Benefits—PPO

§701. Comprehensive Medical Benefits

A. - B. ...

C. Well Care

1. - 2. ...

3. Well Adult (No deductible limited to a maximum benefit of \$200)

Age 16-39 - \$200 during a 3-year period
Age 40-49 - during a 2-year period
Age 50 and over - \$200 during a 1-year period

D. - E. ...

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, 723 (May 2001), LR 27:1887 (November 2001), LR 29:343 (March 2003).

A. Kip Wall
Chief Executive Officer

0303#050

RULE

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

CAPCO Definitions (LAC 10:XV.303)

In accordance with Administrative Procedure Act, R.S. 49:950 et seq., the Office of the Governor, Office of Financial Institutions hereby amends §303, Definitions Provided by Rule of the Capital Companies Tax Credit Program.

Title 10

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

Part XV. Other Regulated Entities

**Chapter 3. Capital Companies Tax Credit Program
§303. Definitions Provided by Rule**

Capitalize a Business for purposes of LAC 10:XV.303. *Investment*(b)(iv) the investment of cash in a business in exchange for common stock, or an equivalent ownership interest. Additionally, this shall include subordinated debt only if 1) it is used to refinance senior debt thereby allowing a qualified Louisiana business to expand; or 2) the CAPCO agrees to subordinate such debt to any current or future senior indebtedness owed by the business, provided that, in the case of future indebtedness, the senior indebtedness is incurred by the portfolio company within three months of the date the CAPCO made the subordinated debt investment.

Investment

a. - b.iv. ...

v. to increase or preserve working capital and/or cash flows for Louisiana operations of the business. However, except as allowed in Clause iv of this Section, this does not include those investments whereby the proceeds of the investment will be utilized to refinance existing debt of the business;

vi. - ix. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1921-2933.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division,

LR 10:872 (November 1984), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), LR 18:251 (March 1992), amended by the Department of Economic Development, Office of Financial Institutions, LR 20:154 (February 1994), LR 23:1128 (September 1997), LR 25:1216 (July 1999), amended by the Office of the Governor, Office of Financial Institutions, LR 29:343 (March 2003).

John D. Travis
Commissioner

0303#036

RULE

Office of the Governor Patient's Compensation Fund Oversight Board

Eligible Healthcare Providers, Practice Groups and Qualification and Enrollment in the Fund
(LAC 37:III.109, 111, 303, 507, 509, 511, 515, 517, 519, 701, 705, 711, 715, 901, 1101, 1401, 1403, 1405, 1501, 1503, 1505, and 1507)

The Patient's Compensation Fund Oversight Board, under authority of the Louisiana Medical Malpractice Act, R.S. 40:1299.41 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., advertises its intent to amend LAC 37:III as follows, to provide additional definitions of eligible healthcare providers, practice groups, and the information required to be furnished to the Oversight Board for qualification and enrollment in the Fund, clarifies the procedure for withdrawal of a security furnished as proof of financial responsibility, clarifies the annual renewal process for enrolled healthcare providers, clarifies the surcharge risk rating for hospitals, clarifies the methods of evidencing financial responsibility to be consistent with current practices, sets forth the requirements of a malpractice complaint, clarifies the requirement to select an attorney-chairman prior to dismissal of a malpractice complaint, and clarifies the authority of the executive director.

Title 37

INSURANCE

Part III. Patient's Compensation Fund Oversight Board

Chapter 1. General Provisions

§109. General Definitions

A. - A.3. ...

i. is currently actively involved in medical practice and/or providing medical services in Louisiana; and
ii. has paid the appropriate surcharge for such practice to the fund for their current policy year.

Qualified Provider Any provider who has met the statutory requirements for malpractice coverage with the Louisiana Patient's Compensation Fund. Qualified providers may be currently either active or inactive in the practice of medicine in Louisiana, depending on the dates for which they are qualified. So long as the financial responsibility requirements for continued qualification are met, a provider need not be currently enrolled in the PCF.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:168 (February 1992), amended LR 23:68 (January 1997), LR 29:344 (March 2003).

§111. Interpretive Definitions

A. As used in these Rules and in the act, the following terms are interpreted and deemed to have the meanings specified.

Certified Nurse Assistant Ca certified nurse aide certified by the Board of Examiners of Nursing Facility Administrators, pursuant to R.S. 37:2504, as amended.

Nursing Home Ca private home, institution, building, residence or other place, licensed or provisionally licensed by the Department of Health and Hospitals, pursuant to R.S. 40:2009.2, as amended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:168 (February 1992), amended LR 29:344 (March 2003).

Chapter 3. Organization, Functions, and Delegations of Authority

§303. Executive Director of the Patient's Compensation Fund Oversight Board

A. - B.7. ...

8. coordination of the defense and disposition of claims against the fund;

9. payment of judgments, settlements, arbitration awards, and medical expenses;

B.10. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:169 (February 1992), amended LR 29:344 (March 2003).

Chapter 5. Enrollment with the Fund

§507. Financial Responsibility: Self-Insurance

A. ...

B. For purposes of §507, upon approval by the board of an application filed by the group, any group of health care providers organized to and actually practicing together or otherwise related by ownership, whether as a corporation, partnership, limited liability partnership or limited liability company, shall be deemed a single health care provider and shall not be required to post more than one deposit. Proof of such status may include a notarized copy of the articles of incorporation, partnership agreement, articles of organization, joint or consolidated entity tax returns, or other documents demonstrating the ownership relation among or between the members of the group, or other evidence which indicates that the members of the group actually practice together for the purpose of health care delivery.

1. This proof of group status shall be submitted to the board:

a. with the group's original application;

b. within 30 days of any change in the group's status, organization, or membership; and

c. within 10 calendar days of receipt of a written demand therefor from the board.

2. It shall be insufficient for qualification under this Rule if a group is organized solely or primarily for the purpose of qualifying for enrollment with the fund.

C.1. - 2. ...

3. In addition to depositing the money or original instrument evidencing the approved security with the board, a self-insured health care provider shall be required to execute a Pledge Agreement prescribed and supplied by the executive director and to provide evidence that written notice, stating that the approved security will be pledged to the board pursuant to the terms of the Pledge Agreement, has been given to the issuing body.

D. - F.1. ...

a. the self-insured health care provider shall, within 90 days of notice of a claim and no less than every 90 days thereafter, submit a proposed reserve amount to the executive director, along with appropriate supporting documentation. Unless rejected by the executive director within 30 days of receipt, the reserve amount submitted shall be deemed approved. If a reserve amount is rejected timely, the self-insured health care provider may, within 15 days, submit a new reserve amount or appeal the rejection of the executive director. If appealed timely, the matter shall be placed on the agenda of the next meeting of the board, at which time the board may accept the proposed reserve, establish a new amount, or defer action for further information. The decision of the board shall be final;

1.b. - 2. ...

G Repealed.

H. ...

I.1. A self-insured health care provider who has evidenced financial responsibility pursuant to §507 may withdraw the deposit prescribed by §507 upon authorization of the executive director. The security furnished as proof of financial responsibility, or a substitution which has been approved by the board, shall remain on deposit and pledged to the board during the term of the health care provider's enrollment as a self-insured health care provider with the fund and for the longer of a three-year period following termination of such enrollment or as long as any medical malpractice claim is pending, whether with the board or in a court of competent jurisdiction. After this time period, authorization may be given when the health care provider files with the executive director, not less than 30 days prior to the date such withdrawal is to be effected, a certificate, signed and verified under oath by the health care provider, certifying:

a. the date the health care provider terminated enrollment with the fund as a self-insured health care provider;

b. that there are no medical malpractice claims pending with the board or in a court of competent jurisdiction;

c. that there are no unpaid final judgments or settlements against or made by the health care provider in connection with or arising out of a malpractice claim; and

d. that there are no unasserted medical malpractice claims which are probable of assertion against the health care provider.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:171 (February 1992), amended LR 18:737 (July 1992), LR 23:68 (January 1997), LR 29:344 (March 2003).

§509. Financial Responsibility: Self-insurance Trusts

A. - B.2. ...

3. In addition to depositing the money or original instrument evidencing the approved security with the board, a self-insured trust shall be required to execute a Pledge Agreement prescribed and supplied by the executive director and to provide evidence that written notice, stating that the approved security will be pledged to the board pursuant to the terms of the Pledge Agreement, has been given to the issuing body.

C. - K. ...

L.1. A self-insurance trust which has evidenced financial responsibility pursuant to §509 may withdraw the deposit prescribed by §509 upon authorization of the executive director. The security furnished as proof of financial responsibility, or a substitution which has been approved by the board, shall remain on deposit and pledged to the board during the term of the trust's members' enrollments as self-insured health care providers with the fund and for the longer of a three-year period following termination of such enrollment or as long as any medical malpractice claim is pending against the trust or any of its members, whether with the board or in a court of competent jurisdiction. After this time period, authorization may be given when the trust files with the executive director, not less than 30 days prior to the date such withdrawal is to be effected, a certificate, signed and verified under oath by the trustee of the trust, certifying:

a. the date that the last remaining member(s) of the trust terminated enrollment with the fund as self-insured health care provider(s);

b. that there are no medical malpractice claims against the trust or any of its members pending with the board or in a court of competent jurisdiction;

c. that there are no unpaid final judgments or settlements against or made by the trust or any of its members in connection with or arising out of a malpractice claim; and

d. that there are no unasserted medical malpractice claims which are probable of assertion against the trust or any of its members.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:172 (February 1992), amended LR 18:737 (July 1992), LR 23:69 (January 1997), LR 29:345 (March 2003).

§511. Coverage: Partnerships and Professional Corporations

A. When, and during the period that, each shareholder, partner, member, agent, officer, or employee of a corporation, partnership, limited liability partnership, or limited liability company, who is eligible for qualification as a health care provider under the act, and who is providing health care on behalf of such corporation, partnership, or limited liability company, is enrolled with the fund as a

health care provider, having paid the applicable surcharges due the fund for enrollment of such individual, such corporation, partnership, limited liability partnership, or limited liability company shall, without the payment of an additional surcharge, be deemed concurrently qualified and enrolled as a health care provider with the fund.

B. The corporation, partnership, limited liability partnership, or limited liability company shall furnish to the board concurrently with its enrollment and renewal applications the name(s) of each shareholder, partner, member, agent, officer, or employee who is eligible for qualification and enrollment with the fund as a health care provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:173 (February 1992), amended LR 29:345 (March 2003).

§515. Certification of Enrollment

A. ...

B. Duplicate or additional certificates of enrollment shall be made available by the executive director to and upon the request of an enrolled health care provider or his or its attorney, or professional liability insurance underwriter when such certification is required to evidence enrollment or qualification with the fund in connection with an actual or proposed malpractice claim against the health care provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:173 (February 1992), amended LR 23:69 (January 1997), LR 29:346 (March 2003).

§517. Expiration, Renewal of Enrollment

A. Enrollment with the fund expires:

1. as to a health care provider evidencing financial responsibility by certification of insurance pursuant to §505 of these Rules, on and as of:

a. the effective date and time of termination of the policy period of the health care provider's professional liability insurance coverage; or

b. the last day of the applicable period for which the prior annual surcharge applied in the event that the annual surcharge for renewal coverage is not paid by the health care provider to the insurer on or before 30 days following the expiration of the enrollment period.

2. ...

B. Enrollment with the fund must be annually renewed by each enrolled health care provider on or before termination of the enrollment period by submitting to the executive director an application for renewal, upon forms supplied by the executive director, and payment of the applicable surcharge in accordance with the Rules hereof providing for the fund's billing and collection of surcharges from insured and self-insured health care providers. Each insured health care provider shall cause the insurer to submit a certificate of insurance to the executive director along with the application for renewal. Each self-insured health care provider and each health care provider covered by a self-insurance trust shall submit, along with the application for renewal, original documents which indicate that the health care provider's deposit with the board is current and/or not in default.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:174 (February 1992), amended LR 29:346 (March 2003).

§519. Cancellation, Termination of Enrollment

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:174 (February 1992), repealed LR 29:346 (March 2003).

Chapter 7. Surcharges

§701. PCF Consulting Actuary

A. - B.1. ...

2. advising the executive director with respect to the establishment, maintenance, and adjustment of reserves on individual claims against the fund and the establishment, maintenance, and adjustment of reserves for incurred but not reported claims;

3. - 6. ...

7. generally advising and consulting with the executive director on all actuarial questions affecting the administration, operation, and defense of the fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:174 (February 1992), amended LR 29:346 (March 2003).

§705. Risk Rating

A. Surcharge rates collected by the fund shall be based on and classified according to the classes and categories of health care liability risks underwritten by the fund with respect to each class of health care practitioners and institutions eligible for enrollment with the fund. With regard to hospitals, surcharge rates collected by the fund shall be based on the annual average number of occupied beds. Risk classifications and ratings adopted by the fund shall be based on actuarial analysis of the claims experience of health care provider groups enrolled with the fund and equivalent data and practices of commercial insurance underwriters and self-insurance funds insuring such groups. Risk rating classifications for health care providers eligible for enrollment with the fund shall be based on Louisiana claims experience data, including the PCF's own claims experience, unless the PCF's actuary affirmatively demonstrates that, as respects any class of provider, reasonably obtainable, competent, and credible Louisiana claims experience data provides an insufficient basis for such classifications under generally accepted insurance actuarial standards, in which case regional or national claims experience data and statistics relative to such classes of health care provider may be utilized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:175 (February 1992), amended LR 29:346 (March 2003).

§711. Payment of Surcharges: Insurers

A. Applicable surcharges for enrollment and qualification with the fund shall be collected on behalf of the fund by commercial professional health care liability insurance companies and approved self-insurance trust funds

from insured health care providers electing to enroll and qualify with the fund. Such surcharges shall be collected by such insurers and funds at the same time and on the same basis as such insurers' and fund's collection of premiums or contributions from such insureds. Surcharges collected by such insurers and funds on behalf of the fund shall be due and payable and remitted to the fund by such insurers and funds within 45 days from the date on which such surcharges are collected from any insured health care provider.

B. Annual surcharges for renewal coverage due the fund by insured health care providers whose surcharges are collected by insurers and funds for enrollment and qualification with the fund shall be due and payable to the collecting insurers and funds on or before 30 days following the expiration of the prior enrollment period. Remittance of surcharges to the fund by the insurers and funds shall be made in such form and accompanied by records in such forms or on such forms as may be prescribed by the executive director so as to provide for proper accounting of remitted surcharges and the identity and class of health care providers on whose behalf such surcharges are remitted. Such insurers and funds remitting surcharges to the fund shall certify to the fund, at the time of remitting such surcharge to the fund, the date that the surcharges were collected by them from the health care providers. The payment of surcharges by an approved self-insurance trust that does not collect premiums or contributions from insureds will be governed by §713 hereof.

C. Failure of the commercial professional health care liability insurers, commercial insurance underwriters, and approved self-insurance trust funds to remit payment within 45 days of collecting such annual surcharge shall subject the commercial professional liability insurers, commercial insurance underwriters, and approved self-insurance trust funds to a penalty of 12 percent of the annual surcharge and all reasonable attorney's fees. Upon the failure of the commercial professional health care liability insurers, commercial insurance underwriters and approved self-insurance trust funds to remit as provided in §711, the board may institute legal proceedings to collect the surcharge, together with penalties, legal interest, and attorney's fees.

D. If the instrument used to pay the surcharge is returned to the fund by the payor institution and/or payment hereon is denied for any reason, the health care provider shall be notified thereof by the fund. If the surcharge is not paid in full by certified check, cashier's check, money order, or cash equivalent funds received by the fund within 10 calendar days of the provider's receipt of said notice, then the provider's coverage with the fund shall be terminated as of the end of the previous enrollment period.

E. It is the purpose of §711 that insurers and approved self-insurance trust funds remit surcharges collected from their insured providers to the fund timely. The timeliness of surcharge remittances to the fund by insurers and approved self-insurance trust funds shall not affect the effective date of fund coverage. However, the failure of insured health care providers to timely remit applicable surcharges to insurers and approved self-insurance trust funds for renewal may result in lapses of coverage with the fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR

18:176 (February 1992), amended LR 20:432 (April 1994), LR 23:69 (January 1997), LR 29:346 (March 2003).

§715. Amount of Surcharges; Form of Coverage; Conversions

A. A health care provider qualified for enrollment by evidence of liability insurance pursuant to §505, or by evidence of participation in an approved self-insurance trust pursuant to §509, shall pay the fund surcharge amount in the most recently approved rate filing which is applicable to his provider type, years enrolled in the fund, and which most closely corresponds to the class and form of coverage of said primary liability insurance or self-insurance trust. The form of coverage provided by the fund shall be identical to that provided by the qualifying policy of insurance or self-insurance except where the policy conflicts with applicable law or regulation.

B. ...

C.1. When a health care provider who had previously purchased claims-made coverage from the fund elects to purchase occurrence coverage from or discontinue enrollment in the fund, he shall not have coverage afforded by the fund for any claims arising from acts or omissions occurring during the fund's claims-made coverage but asserted after the termination of the claims-made coverage unless he evidences financial responsibility for those claims either by purchasing an extended reporting endorsement or posting a deposit with the board pursuant to §507 and pays, on or before 30 days following the termination of the claims-made coverage, the surcharge applicable to fund tail coverage for the corresponding claims-made period(s).

2. When a health care provider who had previously purchased claims-made coverage from the fund elects to purchase self-insured coverage from the fund, he shall not have coverage afforded for any claims arising from acts or omissions occurring during the fund's claims-made coverage but asserted after the termination of the claims-made coverage, unless he evidences financial responsibility for those claims either by purchasing an extended reporting endorsement or posting a second deposit with the board pursuant to §507 and pays, on or before 30 days following the termination of the claims-made coverage, the surcharge applicable to fund tail coverage for the corresponding claims-made period(s).

3. In special circumstances, the board may, at its discretion, waive the payment of an additional surcharge and allow tail coverage to a provider without the payment of the applicable-surcharge. Each such case requires an individual written request for relief to the board, and will be decided on individual circumstances. The board's criteria for such decisions shall include, but not be limited to:

C.3.a. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 23:69 (January 1997), amended LR 29:347 (March 2003).

Chapter 9. Scope of Coverage

§901. Effective Date

A. A health care provider who qualifies for enrollment with the fund by demonstrating financial responsibility through professional liability insurance pursuant to §505 of these Rules, shall be deemed to become and be enrolled with the fund effective as of the date on which the surcharge

payable by or on behalf of such health care provider is timely collected in accordance with §711 hereof and the applicable policies and procedures of the insurer for premium payments. If such surcharge is not timely collected, the effective date of enrollment with the fund shall be the date on which such surcharge is paid to the fund is collected or accepted by the insurer.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299-44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:176 (February 1992), amended LR 23:70 (January 1997), LR 29:347 (March 2003).

Chapter 11. Reporting

§1101. Reporting of Claims, Reserves, Proposed Settlement

A. - C. ...

D. Within 20 days of the receipt of a malpractice claim against an enrolled health care provider in the form of a lawsuit, the health care provider, or the health care provider's liability insurer, shall furnish a copy of the lawsuit to the PCF. The health care provider, or the health care provider's liability insurer, shall also furnish to the PCF within 20 days of receipt, a copy of all amending pleadings related to the lawsuit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:177 (February 1992), amended LR 29:348 (March 2003).

Chapter 14. Medical Review Panels

§1401. Procedure

A. Except as otherwise provided by the act, all malpractice claims against health care providers shall be reviewed by a medical review panel. The composition and operation of a medical review panel shall be in accordance with R.S. 40:1299.47.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 29:348 (March 2003).

§1403. Malpractice Complaint

A. A "request for review of a malpractice claim" or "malpractice complaint" shall contain, at a minimum:

1. a request for the formation of a medical review panel;
2. name of the patient;
3. name(s) of the claimant(s);
4. name(s) of defendant health care providers;
5. date(s) of alleged malpractice;
6. brief description of alleged malpractice; and
7. brief description of alleged injuries.

B. The request for review of a malpractice claim shall be deemed filed on the date of receipt of the complaint stamped and certified by the board or on the date of mailing of the complaint if mailed to the board by certified or registered mail.

C. Within 15 days of receiving a malpractice complaint, the board shall:

1. confirm to the claimant that the malpractice complaint has been officially received and whether or not

the named defendant(s) are qualified for the malpractice claim; and

2. notify all named defendant(s) that a malpractice complaint requesting the formation of a medical review panel has been filed against them and forward a copy of the malpractice complaint to each named defendant at his last and usual place of residence or his office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 29:348 (March 2003).

§1405. Attorney Chairman

A. An attorney chairman of a medical review panel is to be chosen by the parties according to R.S. 40:1299.47.C. An attorney chairman must be secured within two years from the date the request for review of the claim was filed. If, after two years, an attorney chairman has not been secured, the board shall send notice by certified mail to the claimant or the claimant's attorney stating that the claim will be dismissed after 90 days if no attorney chairman is appointed. If no attorney chairman is appointed within 90 days of the certified notice, the board shall dismiss the claim.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 29:348 (March 2003).

Chapter 15. Defense of the Fund

§1501. Claims Defense

A. Through its executive director, the board shall be responsible for the administration and processing of claims against and legal defense of claims against the fund. The executive director shall be responsible, and accountable to the board, for coordination and management of defense of the fund against claims to the extent of the responsibilities imposed on the board by the act. Without limitation on the scope of such responsibility, the executive director shall be specifically responsible for:

1. - 2. ...

3. retaining, subject to qualifications and standards prescribed by the board, and supervising the services of attorneys at law to defend the fund against claims;

4. - 7. ...

8. the discharge and performance of such other duties, responsibilities, functions, and activities as are delegated by the board;

9. all authority for the defense of the fund vested in the board by the Act is hereby delegated to the executive director. In the exercise of such authority, the executive director shall be accountable to, and subject to the superseding authority of, the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:179 (February 1992), amended LR 29:348 (March 2003).

§1503. Claims Accounting

A. All expenses incurred in the legal defense, disposition, payment on individual claims, judgments, or settlements shall be accounted for and allocated among such respective claims.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:179 (February 1992), amended LR 29:348 (March 2003).

§1505. Claim Reserves

A. Within 10 days of receipt of notice of a claim against or potentially involving liability of the fund, the fund shall establish a reserve against such claim representing the total amount of compensation and compensation adjustment expenses which the fund is anticipated to be liable for and incur in respect of and allocable to such claim. Reserves respecting individual claims against the fund shall be established in consultation, as appropriate, with legal counsel representing the fund with respect to such claim, with legal counsel for the enrolled health care providers against whom the claim is primarily asserted, and with claims personnel managing such claim for the commercial insurers of the enrolled health care providers against whom the claim is asserted. Reserves respecting individual claims against the fund shall be adjusted from time to time as changing circumstances or evaluations may warrant, and all reserves shall be reviewed not less frequently than quarterly for necessary and appropriate adjustments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:180 (February 1992), amended LR 29:349 (March 2003).

§1507. Settlement of Claims

A. Claims against the fund may be compromised and settled upon the recommendation of the executive director and the approval of the board. The executive director shall, however, have authority, without the necessity of prior approval by the board, to compromise and settle any individual claim against the fund for an amount not exceeding \$10,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44.D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:180 (February 1992), amended LR 29:349 (March 2003).

Lorraine LeBlanc
Executive Director

0303#025

RULE

**Office of the Governor
Real Estate Commission**

Agency Disclosure
(LAC 46:LXVII.3703 and 3705)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Real Estate Commission has amended LAC 46:LXVII.Chapter 37, §§3703 and 3705. The amendments provide for an agency disclosure form that may be used in lieu of the agency disclosure pamphlet at the discretion of the licensee. Language regulating the timeframe in which signatures are obtained on the dual agency disclosure form or the agency

disclosure form will be amended to coincide with the governing statute, R.S. 9:3897.C.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part LXVII. Real Estate
Subpart 1. Real Estate**

Chapter 37. Agency Disclosure

§3703. Agency Disclosure Informational Pamphlet

A. Licensees shall provide the agency disclosure informational pamphlet or the agency disclosure form to all parties to a real estate transaction involving the sale or lease of real property.

B. The agency disclosure informational pamphlet and the agency disclosure form may be obtained from the commission in a form suitable for use by licensees in reproducing them locally. Licensees are responsible for ensuring that the pamphlets and forms are the most current version prescribed by the commission and that reproductions of the pamphlet and form contain the identical language prescribed by the commission.

C. Licensees will provide the agency disclosure informational pamphlet or the agency disclosure form to prospective sellers/lessors and buyers/lessees at the time of the first face-to-face contact with the sellers/lessors or buyers/lessees when performing any real estate related activity involving the sale or lease of real property, other than a ministerial act as defined in R.S. 9:3891(12).

D. Licensees providing agency disclosure informational pamphlets or agency disclosure forms to prospective sellers/lessors and buyers/lessees shall insure that the recipient of the pamphlet or form signs and dates the pamphlet or form. The licensee providing the pamphlet or form shall sign as a witness to the signature of the recipient, and the licensee will retain the signed pamphlet or form for a period of five years.

E. In any circumstance in which a seller/lessor or a buyer/lessee refuses to sign the receipt included in the agency disclosure informational pamphlet or the agency disclosure form, the licensee shall prepare written documentation to include the nature of the proposed real estate transaction, the time and date the pamphlet or form was provided to the seller/lessor or buyer/lessee, and the reasons given by the seller/lessor or buyer/lessee for not signing the pamphlet or form. This documentation will be retained by the licensee for a period of five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:47 (January 2000), amended LR 29:349 (March 2003).

§3705. Dual Agency Disclosure

A. The dual agency disclosure form will be used by licensees acting as a dual agent under R.S. 9:3897.

B. The dual agency disclosure form shall be obtained from the commission in a form suitable for use by licensees in reproducing the form locally. Licensees are responsible for ensuring that the form is the most current version prescribed by the commission and that reproductions of the forms contain the identical language prescribed by the commission.

C. Licensees shall ensure that the dual agency disclosure form is signed by all clients at the time the brokerage agreement is entered into or at any time before the licensee acts as a dual agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:47 (January 2000), amended LR 29:349 (March 2003).

Julius C. Willie
Executive Director

0303#035

RULE

**Department of Natural Resources
Office of Conservation**

Fees (LAC 43:XIX.703)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Conservation hereby amends the established application fees for public hearings.

Title 43

NATURAL RESOURCES

**Part XIX. Office of ConservationC General Operations
Subpart 2. Statewide Order No. 29-R**

Chapter 7. Fees

§703. Fee Schedule for Fiscal Year 2002-2003

A. Fee Schedule

Application Fees	Amount

Application for Public Hearing	\$755

B. - E.3. ...

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 26:1528 (July 2000), LR 26:2304 (October 2000), LR 27: 1430 (August 2001), LR 27:1897 (November 2001), LR 28:2368 (November 2002), LR 29:350 (March 2003).

James H. Welsh
Commissioner of Conservation

0303#009

RULE

**Board of Examiners of Bar Pilots
for the Port of New Orleans**

Bar Pilot Regulations
(LAC 46:LXXVI.Chapters 11-16)

The Louisiana Legislature formed the Board of Examiners of Bar Pilots for the Port of New Orleans for the purpose of establishing Rules, regulations and requirements for holding

examinations for all applicants who have registered with them for the posts of bar pilots; to establish standards for recommendation by the Board of Examiners of bar pilots for the Port of New Orleans to the Governor of the state of Louisiana for appointment as bar pilots who, pursuant to R.S. 34:941 et seq., have the duty to pilot sea-going vessels into and out of the entrances of the Mississippi River and into and out of the entrances of all other waterways connecting the Port of New Orleans with the outside waterways of the Gulf of Mexico; to establish procedures in conformity with the requirements of the Administrative Procedure Act for investigating and conducting hearings relative to incidents and/or complaints of pilot misconduct; to establish certain minimum standards of conduct, including conduct relative to neglect of duty, drunkenness, carelessness, habitual intemperance, substance abuse, incompetency, unreasonable absence from duty, and general bad conduct of bar pilots; to provide a uniform set of Rules and regulations for the proper and safe pilotage of sea-going vessels upon the waterways under the jurisdiction of the Associated Branch Pilots for the Port of New Orleans; and to insure compliance by the Board of Examiners with the Public Meetings Law. These Rules and regulations are enacted to accomplish those purposes required by the Legislature and to protect the public by ensuring available, safe and competent pilotage of vessels on the waterways under the jurisdiction of this board of examiners.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXXVI. Steamship Pilots

Subpart 3. Bar Pilots of the Port of New Orleans

Chapter 11. General Provisions

§1101. Authority

A. As mandated by R.S. 34:945.C.1, these Rules and regulations are issued by the Board of Examiners of bar pilots for the Port of New Orleans in accordance with the Administrative Procedure Act under R.S. 49:950, et seq. for the purpose of adopting Rules, regulations and requirements for holding examinations for all applicants who have registered with them for the posts of bar pilots.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:350 (March 2003).

§1102. Purpose

A. The purposes of these Rules and regulations are as follows:

1. to establish standards for recommendation by the Board of Examiners of Bar Pilots for the Port of New Orleans to the Governor of the State of Louisiana for appointment as bar pilots who, pursuant to R.S. 34:941 et seq., have the duty to pilot sea-going vessels into and out of the entrances of the Mississippi River and into and out of the entrances of all other waterways connecting the Port of New Orleans with the outside waterways of the Gulf of Mexico.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:350 (March 2003).

§1103. Definitions

A. The following terms as used in these Rules and regulations, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings.

Administrative Procedure Act The Louisiana Administrative Procedure Act under R.S. 49:950 et seq.

Application The written application supplied by the Board of Examiners to an applicant who desires to become a bar pilot for the Port of New Orleans.

Board of Examiners or *Board* The Board of Examiners of Bar Pilots for the Port of New Orleans, established in R.S. 34:942.

Bar Pilot or *Pilot* A bar pilot for the Port of New Orleans, as designated in R.S. 34:943.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:351 (March 2003).

§1104. Severability

A. If any provision of these Rules and regulations is held to be invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end, provisions of these Rules and regulations are declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:351 (March 2003).

§1105. Effective Date

A. These Rules and regulations shall be in full force and effective 90 days after final publication in the *Louisiana Register*. All bar pilots and bar pilot candidates shall be provided with a copy of these Rules and regulations as well as any amendments, after the Rules and regulations are adopted by the Board of Examiners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:351 (March 2003).

§1106. Qualifications of Pilots

A. No person shall be recommended to the governor for appointment as a Bar Pilot unless the applicant:

1. is a qualified elector of the State of Louisiana;
2. has served at least 12 months next preceding the date of his application in a pilot boat at the mouth of the Mississippi River or other entrances into the Gulf of Mexico or other outside waters from the Port of New Orleans;
3. has successfully passed the examination given by the board of examiners, as required by R.S. 34:948;
4. owns or has made a binding legal agreement to acquired as owner or part owner of at least one decked pilot boat of not less than 50 tons burden, which is used and employed exclusively as a pilot boat, as required by R.S. 34:930;
5. is a high school graduate or, in lieu thereof, holds a third mate's license;
6. has served at least one year at sea on a sea-going vessel of not less than 1600 gross tons in the deck department;

7. has successfully passed a physical examination which in the judgment of the Board of Examiners includes those standards, such as vision, color perception and hearing tests, to perform duties as a bar pilot;

8. is of good moral character; and

9. shall have completed satisfactorily an apprenticeship program which culminates in a cubbing period of not less than 9 months duration handling vessels over the routes of the bar pilots under the supervision of not less than 25 licensed state bar pilots.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:351 (March 2003).

§1107. Minimum Requirements

A. The Board of Examiners shall review, and if found satisfactory, approve the apprenticeship program of the applicant, the minimum requirements of which shall be as follows: the applicant must set forth in detail the names of the vessels handled, dates handled, the direction of travel, size, draft, and type of vessel, and the name of the supervising bar pilot. During the period of apprenticeship the applicant shall handle vessels on not less than 650 occasions, two-thirds of which shall be at night.

B. The board of examiners will review the number and times of vessels handled, the size, draft, and type of vessels and the conditions under which the applicant has performed the apprenticeship in order to determine if the applicant has had sufficient exposure as to enable the board of examiners to make a determination of the applicant's competence and ability to perform the duties of a bar pilot.

C. The Board of Examiners shall prescribe the form of the application and required documentary proof of the applicant's eligibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:351 (March 2003).

§1108. Bond

A. No person shall assume the position of bar pilot until he shall have first taken the oath prescribed by law and has furnished a bond in favor of the Governor in the amount of \$2,000 conditioned on the faithful performance of his duties imposed upon him as a bar pilot. This bond shall be approved by the Board of Commissioners of the Port of New Orleans.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:351 (March 2003).

Chapter 13. Pilots

Subchapter A. General Provisions

§1301. Authority

A. As mandated by R.S. 34:945.c.1, these Rules and regulations are issued in accordance with the Administrative Procedure Act under R.S. 49:950 et seq. for the purpose of establishing minimum standards of conduct for bar pilots and for the proper and safe pilotage of sea-going vessels into and out of the entrance of the Mississippi River and into and out of the entrances of all other waterways connecting the

Port of New Orleans with outside waters of the Gulf of Mexico, including the entrance of the New Orleans Tidewater Channel at the western shore of the Chandeleur Sound off Point Chicot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:351 (March 2003).

§1302. Purpose

A. The purposes of these Rules and regulations are as follows:

1. to establish certain minimum standards of conduct, including conduct relative to neglect of duty, drunkenness, carelessness, habitual intemperance, substance abuse, incompetency, unreasonable absence from duty, and general bad conduct of bar pilots;

2. to provide a uniform set of Rules and regulations for the proper and safe pilotage of sea-going vessels upon the waterways referred to in §1101.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:352 (March 2003).

§1303. Definitions

A. The following terms as used in these Rules and regulations, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings.

Administrative Procedure Act the Louisiana Administrative Procedure Act under R.S. 49:950 et seq.

Bar Pilot or *Pilot* a bar pilot for the Port of New Orleans, as designated in R.S. 34:943.

Board of Examiners or *Board* the Board of Examiners of Bar Pilots for the Port of New Orleans, established in R.S. 34:942.

Services of a Bar Pilot any advice or assistance with respect to pilotage by the commissioned bar pilot or by his authorized representative, including but not limited to advice concerning weather, channel conditions, or other navigational conditions.

Waterways the entrance into and out of the Mississippi River and into and out of the entrances of all other waterways connecting the Port of New Orleans with the outside waters of the Gulf of Mexico, including the entrance of the New Orleans Tidewater Channel at the western shore of the Chandeleur sound off Point Chicot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:352 (March 2003).

§1304. Investigations and Enforcement

A. All complaints reported to the board shall be considered for investigation. A complaint under the provisions of §1304.A through §1304.F is defined as:

1. any written complaint involving a bar pilot commissioned for the Port of New Orleans;

2. any reported incident involving a bar pilot commissioned for the Port of New Orleans while piloting a vessel; or

3. any other event involving a bar pilot commissioned for the Port of New Orleans that, in the discretion of any member of the board, justifies further investigation.

B. The board may appoint an investigating officer to investigate the complaint and report to the board.

C. If the board, or its designated investigating officer, is of the opinion that the complaint, if true, is sufficient to justify a further investigation, it shall appoint an investigating officer, or authorize its designated investigating officer to conduct a full investigation of the complaint.

D. Once authorized under §1304.C, the investigating officer, who may be an active or retired member of the Associated Branch Pilots of the Port of New Orleans, Louisiana, and who may be a member of the Board, shall make a full and complete investigation of the complaint. He shall be assisted by an attorney, named as independent prosecutor by the board. In the event that the Investigating Officer, as contemplated by either §1304.B or §1304.C, is an active member of the board, he shall be recused from any participation in the decision of the case.

E. If the investigating officer is of the opinion that the conduct in question is not sufficient to justify further proceedings, he shall make a reasoned report to the board, which may accept or reject his recommendation.

F. If the investigating officer is of the opinion that the conduct complained of is sufficient to justify further proceedings and the board has accepted his recommendations, or if the board has rejected his recommendation to dismiss the complaint, he shall give notice to the respondent, by registered mail, of the facts or conduct on which the complaint is based, and offer the respondent an opportunity to show compliance with the laws or regulations allegedly violated. If, in the opinion of the investigating officer, the respondent is able to demonstrate such compliance, then the investigating officer shall make a report to the board, recommending to the board that the complaint be dismissed. The board may accept or reject the recommendation of the investigating officer.

G. If the respondent is unable to demonstrate such compliance, or if the board rejects the recommendation of the investigating officer to dismiss the complaint, the investigating officer shall initiate proceedings by filing a written administrative complaint with the board, which shall be signed by the investigating officer.

H. The administrative complaint shall name the accused bar pilot as respondent in the proceedings. It shall also set forth, in separately numbered paragraphs, the following:

1. a concise statement of material facts and matters alleged and to be proven by the investigating officer, including the facts giving rise to the board's jurisdiction over the respondent;

2. the facts constituting legal cause under law for administrative action against the respondent;

3. the statutory or regulatory provisions alleged to have been violated by respondent.

I. The administrative complaint shall conclude with a request for the administrative sanction sought by the investigating officer, and shall state the name, address, and telephone number of administrative complaint counsel engaged by the board to present the case at the evidentiary hearing before the board.

J. The board may either accept or reject the administrative complaint.

K. If it rejects the administrative complaint, the case may be either dismissed or referred back to the investigating officer for further investigation.

L. If the board accepts the administrative complaint, the board shall docket the administrative complaint and schedule the administrative complaint for hearing before the board not less than 45 days nor more than 180 days thereafter; provided, however, that such time may be lengthened or shortened as the board determines may be necessary or appropriate to protect the public interest or upon motion of the investigating officer or respondent pursuant to a showing of proper grounds. In the event the respondent's commission as a bar pilot for the port of New Orleans has been suspended by the board pending hearing, the evidentiary hearing on the administrative complaint shall be noticed and scheduled not more than 45 days after the filing of the administrative complaint.

M. A written notice of the administrative complaint and the time, date and place of the scheduled hearing thereon shall be served upon the respondent by registered, return receipt requested mail, as well as by regular first class mail, at the most current address for the respondent reflected in the official records of the board, or by personal delivery of the administrative complaint to the respondent. The notice shall include a statement of the legal authority and jurisdiction under which the hearing is to be held, and shall be accompanied by a certified copy of the administrative complaint.

N. The case shall be prosecuted by the independent prosecutor, also referred to administrative complaint counsel, who shall handle the case to its conclusion. He shall be entirely independent of the authority of the board in going forward with the matter, and may conduct such further investigation, and prepare and try the case in such manner as he may deem appropriate.

O. Within 15 days of service of the administrative complaint, or such longer time as the board, on motion of the respondent, may permit, the respondent may answer the administrative complaint, admitting or denying each of the separate allegations of fact and law set forth therein. Any matters admitted by respondent shall be deemed proven and established for purposes of adjudication. In the event that the respondent does not file a response to the administrative complaint, all matters asserted therein shall be deemed denied.

P. Any respondent may be represented in an adjudication proceeding before the board by an attorney at law duly admitted to practice in the state of Louisiana. Upon receipt of service of an administrative complaint pursuant to these Rules, or thereafter, a respondent who is represented by legal counsel with respect to the proceeding shall, personally or through such counsel, give written notice to the board of the name, address, and telephone number of such counsel. Following receipt of proper notice of such representation, all further notices, administrative complaints, subpoenas or other process related to the proceeding shall be served on respondent through his or her designated counsel of record.

Q. All pleadings, motions or other papers permitted or required to be filed with the board in connection with a

pending adjudication proceeding shall be filed by personal delivery at or by mail to the office of the board and shall by the same method of delivery be concurrently served upon administrative complaint counsel designated by the administrative complaint, if filed by or on behalf of the respondent, or upon respondent, through counsel of record, if any, if filed by administrative complaint counsel.

1. All such pleadings, motions or other papers shall be submitted on plain white letter-size (8 1/2 x 11") bond, with margins of at least one inch on all sides, and double spaced except as to quotations and other matters customarily single spaced, shall bear the caption and docket number of the case as it appears on the administrative complaint, and shall include the certificate of the attorney or person making the filing that service of a copy of the same has been effected in the manner prescribed by Subsection A of this Section.

2. The Board may refuse to accept for filing any pleading, motion or other paper not conforming to the requirements of this section.

R. Motions for continuance of hearing, for dismissal of the proceeding and all other prehearing motions shall be filed not later than 30 days following service of the Administrative Complaint on the respondent or 15 days prior to the hearing, whichever is earlier. Each prehearing motion shall be accompanied by a memorandum which shall set forth a concise statement of the grounds upon which the relief sought is based and the legal authority therefor. A motion may be accompanied by an affidavit as necessary to establish facts alleged in support of the motion. Within 10 days of the filing of any such motion and memorandum or such shorter time as the board may order, the investigating officer, through administrative complaint counsel, may file a memorandum in opposition to or otherwise setting forth the investigating officer's position with respect to the motion.

S.1. A motion for continuance of hearing shall be filed within the delay prescribed by §1304.R of these Rules, provided that the board may accept the filing of a motion for continuance at any time prior to hearing upon a showing of good cause not discoverable within the time otherwise provided for the filing of prehearing motions.

2. A scheduled hearing may be continued by the board only upon a showing by respondent or administrative complaint counsel that there are substantial legitimate grounds that the hearing should be continued, balancing the right of the respondent to a reasonable opportunity to prepare and present a defense to the complaint and the board's responsibility to protect the public health, welfare and safety. Except in extraordinary circumstances evidenced by verified motion or accompanying affidavit, the board will not ordinarily grant a motion to continue a hearing that has been previously continued upon motion of the same party.

3. If an initial motion for continuance is not opposed, it may be granted by the presiding officer.

T.1. Any prehearing motion, other than an unopposed initial motion for continuance of hearing which may be granted by the chairman of the board, shall be referred for decision to the board member designated by the board as the presiding officer of the board designated with respect to the proceeding for ruling. The presiding officer, who shall be a member of the board designated as presiding officer by the board in each matter before the board, in his discretion, may refer any prehearing motion to the board for disposition, and

any party aggrieved by the decision of a presiding officer on a prehearing motion may request that the motion be reconsidered by the entire panel.

2. Prehearing motions shall ordinarily be Ruled upon by the presiding officer or the board, as the case may be, on the papers filed, without hearing. On the written request of respondent or of administrative complaint counsel, however, and on demonstration that there are good grounds therefor, the presiding officer may grant opportunity for hearing by oral argument, on any prehearing motion.

U.1. Upon request of the respondent or administrative complaint counsel and compliance with the requirements of this Section, any board member shall sign and issue subpoenas in the name of the board requiring the attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence at an adjudication hearing.

2. No subpoena shall be issued unless and until the party who wishes to subpoena the witness first deposits with the board a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Witnesses subpoenaed to testify before the board only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examination, and to state the results thereof, shall receive such additional compensation from the party who wishes to subpoena such witnesses as may be fixed by the board with reference to the value of time employed and the degree of learning or skill required.

V.1. In any case of adjudication noticed and docketed for hearing, counsel for respondent and administrative complaint counsel may agree, or the presiding officer may require, that a prehearing conference be held among such counsel, or together with the board's independent counsel appointed pursuant to §1304.W hereof, for the purpose of simplifying the issues for hearing and promoting stipulations as to facts and proposed evidentiary offerings which will not be disputed at hearing.

2. Following such prehearing conference the parties shall, and without such conference the parties may by agreement, agree in writing on a prehearing stipulation which should include:

- a. a brief statement by administrative complaint counsel as to what such counsel expects the evidence to be presented against respondent to show;
- b. a brief statement by respondent as to what the evidence and arguments in defense are expected to show;
- c. a list of the witnesses to be called by administrative complaint counsel and by respondent, together with a brief general statement of the nature of the testimony each such witness is expected to give;
- d. any stipulations which the parties may be able to agree upon concerning undisputed claims, facts, testimony, documents or issues; and
- e. an estimate of the time required for the hearing.

W.1. Unless otherwise requested by the respondent, adjudication hearings, being the hearing conducted on the merits of the administrative complaint, shall be conducted in closed session.

2. At an adjudication hearing, opportunity shall be afforded to administrative complaint counsel and respondent

to present evidence on all issues of fact and argument on all issues of law and policy involved, to call, examine and cross-examine witnesses, and to offer and introduce documentary evidence and exhibits as may be required for full and true disclosure of the facts and disposition of the administrative complaint.

3. Unless stipulation is made between the parties and approved by the board, providing for other means of recordation, all testimony and other proceedings of an adjudication shall be recorded by a certified stenographer who shall be retained by the board to prepare a written transcript of such proceedings.

4. During evidentiary hearing, the presiding officer shall Rule upon all evidentiary objections and other procedural questions, but in his discretion may consult with the entire panel in executive session. At any such hearing, the board may be assisted by legal counsel retained by the board for such purpose, who is independent of administrative complaint counsel and who has not participated in the investigation or prosecution of the case. If the board or panel is attended by such counsel, the presiding officer may delegate to such counsel ruling on evidentiary objections and other procedural issues raised during the hearing.

5. The record in a case of adjudication shall include:
- a. the administrative complaint and notice of hearing, respondent's response to the complaint, if any, subpoenas issued in connection with discovery, and all pleadings, motions, and intermediate rulings;
 - b. evidence received or considered at the hearing;
 - c. a statement of matters officially noticed except matter so obvious that statement of them would serve no useful purpose;
 - d. offers of proof, objections, and rulings thereon;
 - e. proposed findings and exceptions, if any;
 - f. the decision, opinion, report or other disposition of the case made by the board.

6. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

X.1. In an adjudication hearing, the board may give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. Effect shall be given to the Rules of privilege recognized by law. The board or panel may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

2. All evidence, including records and documents in the possession of the board which administrative complaint counsel desires the board to consider, shall be offered and made a part of the record, and all such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference, the materials so incorporated shall be available for examination by the respondent before being received in evidence.

3. Notice may be taken of judicially cognizable facts and generally recognized technical or scientific facts within the board's knowledge. Parties shall be notified either before or during the hearing of the material noticed or sought by a

party to be noticed, and they shall be afforded an opportunity to contest the material so noticed. The board's experience, technical competence and knowledge may be utilized in the evaluation of the evidence.

4. Any member of the board serving as presiding officer in an adjudication hearing shall have the power to and shall administer oaths or affirmations to all witnesses appearing to give testimony, shall regulate the course of the hearing, set the time and place of continued hearings, fix the time for the filing of briefs and other documents, if they are required or requested, and may direct the parties to appear and confer to consider simplification of the issues.

5. Except as otherwise governed by the provision of these Rules, adjudication hearings before the board shall be governed by the Louisiana Code of Evidence, insofar as the same may be applied.

Y. The board may make informal disposition, by default, consent order, agreement, settlement or otherwise of any adjudication pending before it. A consent order shall be considered by the board only upon the recommendation of the investigating officer.

Z.1. The final decision of the board in an adjudication proceeding shall, if adverse to the respondent, and otherwise may be, in writing, shall include findings of fact and conclusions of law, and shall be signed by the presiding officer of the hearing panel on behalf and in the name of the board.

2. Upon issuance of a final decision, a certified copy thereof shall promptly be served upon respondent's counsel of record, or upon respondent personally in the absence of counsel, in the same manner of service prescribed with respect to service of administrative complaints.

AA.1. A decision by the board in a case of adjudication shall be subject to rehearing, reopening, or reconsideration by the board pursuant to written motion filed with the board within ten days from service of the decision on respondent or on its own motion. A motion for rehearing, reopening, or reconsideration shall be made and served in the form and manner prescribed by §1304.Q and shall set forth the grounds upon which such motion is based, as provided by Subsection B of this Section.

2. The board may grant rehearing, reopening, or reconsideration if it is shown that:

- a. the decision is clearly contrary to the law and the evidence;
- b. the respondent has discovered since the hearing evidence important to the issues which he or she could not have with due diligence obtained before or during the hearing;
- c. other issues not previously considered ought to be examined in order to properly dispose of the matter; or
- d. there exists other good grounds for further consideration of the issues and the evidence in the public interest.

BB. Pursuant to R.S. 34:945(C)(3), the board of Examiners shall have the authority to impose a fine of not more than \$500 on any bar pilot, to reprimand or remove from a vessel any bar pilot, or to recommend to the Governor that the commission of any bar pilot be suspended or revoked, if after a hearing conducted in accordance with these Rules and regulations and the administrative procedure

act a bar pilot is found in violation of any Rule or regulation adopted by the board of examiners.

CC. The authority established in these Rules is in addition to and in no way limits the authority of the board to seek to remove or to remove a pilot from a vessel pursuant to the provisions of R.S. 34: 947 and R.S. 49:961(C).

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:352 (March 2003).

§1305. Severability

A. If any provision of these Rules and regulations is held to be invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end, provisions of these Rules and regulations are declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:355 (March 2003).

§1306. Effective Date

A. These Rules and regulations shall be in full force and effective 90 days after final publication in the *Louisiana Register*. All bar pilots and bar pilot candidates shall be provided with a copy of these Rules and regulations, as well as any amendments, after the Rules and regulations are adopted by the board of examiners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:355 (March 2003).

Chapter 14. Standards of Conduct: Proper and Safe Pilotage

§1401. Adoption of Inland Navigational Rules

A. For those waters on which the Inland Rules apply within the jurisdiction of the bar pilots, the board of Examiners hereby adopts, by reference and in its entirety, the Inland Navigational Rules at 33 U.S.C. Section 2001, et seq. The board of examiners also adopts the navigation safety standards set forth in Title 33 CFR part 164 (p). All bar pilots and bar pilot applicants shall be subject to these Inland Navigational Rules and safety standards as adopted herein by reference.

Title 33 CFR Part 164 (P)

(p) The person directing the movement of the vessel sets the vessel's speed with consideration for:

- (1) the prevailing visibility and weather conditions;
- (2) the proximity of the vessel to fixed shore and marine structures;
- (3) the tendency of the vessel underway to squat and suffer impairment of maneuverability when there is small underkeel clearance;
- (4) the comparative proportions of the vessel and the channel;
- (5) the density of marine traffic;
- (6) the damage that might be caused by the vessel's wake;
- (7) the strength and direction of the current; and
- (8) any local vessel speed limit.

NOTE: These Rules CFR 110.195 and 161.402 have not been adopted but should be reviewed by all pilots and applicants.

Title 33 CFR 110.195

(a) The Anchorage Grounds. Unless otherwise specified, all anchorage widths are measured from the average low water plane (ALWP).

(1) Pilottown Anchorage. An area 5.2 miles in length along the right descending bank of the river from mile 1.5 to mile 6.7 above Head of Passes, extending in width to 1600 feet from the left descending bank of the river.

Title 33 CFR 161.402

(c) Navigation of South and Southwest Passes.

(1) No vessel, except small craft and towboats and tugs without tows, shall enter either South Pass or Southwest Pass from the Gulf until after any descending vessel which has approached within two and one-half (2 1/2) miles of the outer end of the jettles and visible to the ascending vessel shall have passed to sea.

(2) No vessel having a speed of less than 10 mph shall enter South Pass from the Gulf when the state of the Mississippi River exceeds 15 feet on the Carrollton Gage at New Orleans. This paragraph does not apply when Southwest Pass is closed to navigation.

(3) No vessel, except small craft and towboats and tugs without tows, ascending South Pass shall pass Franks Crossing Light until after a descending vessel shall have passed Depot Point Light.

(4) No vessel, except small craft and towboats and tugs without tows, shall enter the channel at the head of South Pass until after an ascending vessel which has reached Franks Crossing Light shall have passed through into the river.

(5) When navigating South Pass during periods of darkness no tow shall consist of more than one towed vessel other than small craft, and during daylight hours, no tow shall consist of more than two towed vessels other than small craft. Tows may be in any formation. When towing on a hawser, the hawser shall be as short as practicable to provide full control at all times.

(6) When towing in Southwest Pass during periods of darkness no tow shall consist of more than two towed vessels other than small craft, and during daylight hours, no tow shall consist of more than three towed vessels other than small craft.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:355 (March 2003).

§1402. Ships Required to Take Pilots

A. All ships and vessels inward or outward bound throughout the entrances of the Mississippi River or other inland waterway connecting the Port of New Orleans with the Gulf of Mexico, or other outside waters, except those of 100 tons or less lawfully engaged in the coasting trade of the United States, shall take a bar pilot when one is offered; and any ship or vessel refusing or failing to take a pilot shall be liable to the pilot thus offering for pilotage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:356 (March 2003).

§1403. Pilots' Duty of Remain on Board Ship until Crossing Bar

A. When boarding an outward bound ship or vessel at the boarding stations bar pilots shall remain on board the ship until she crosses the bar, unless permission is given by the master for the pilot to absent himself from the ship or vessel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:356 (March 2003).

§1404. Acting as Pilot without License; Penalty

A. No person who is not commissioned a bar pilot shall board any ship or vessel required to take a bar pilot, for the purpose of piloting, or to pilot or attempt to pilot the same; and no person or pilot shall board any such ship or vessel for the purpose of piloting, except from the pilot boats on the bar pilot stations. Whoever violates the provisions of this Section shall be fined not less than \$1,500 nor more than \$5,000, or may be imprisoned for not more than six months, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:356 (March 2003).

§1405. Pilot's Duty to Exhibit License

A. Whoever offers to pilot a ship or other vessel shall, if required, exhibit to the commander thereof this identification card as a bar pilot, attested to by the chairman of the board of examiners; and if he refuses or neglects to do so, he shall not be entitled to any remuneration for any service he may render as pilot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:356 (March 2003).

§1406. Employing Pilot without Licenses; Liability of Vessel, Master or Owner

A. When a vessel, inward or outward bound to or from the Port of New Orleans employs as a pilot a person who is not a state commissioned bar pilot, when a bar pilot offers his services, the vessel, her captain and owners, shall be liable for a civil penalty of and shall forfeit to the state of Louisiana the sum of \$15,000 with privilege on the vessel, to be recovered before any court of competent jurisdiction. An action for forfeiture under this Section may be brought by the attorney general of Louisiana or by the Associated Branch Pilots of the Port of New Orleans. If the Associated Branch Pilots of the Port of New Orleans obtains a judgment hereunder, the court shall include in its judgment a reasonable attorney's fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:356 (March 2003).

§1407. Employing Pilot without a State Commission; Penalties

A. No master, owner, or agent of a vessel required under R.S. 34:953 to take a state commissioned bar pilot shall, when a state commissioned bar pilot offers his services, employ as a pilot a person who is not a state commissioned bar pilot.

B. Whoever violated this Section shall be subject to a fine of not less than \$1,500 nor more than \$5,000, or imprisoned for not more than 6 months, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:356 (March 2003).

§1408. Offering of Services

A. As used in this Subpart, reference to the offering of a bar pilot or the offering of services by a bar pilot shall mean any offering of any advice or assistance with respect to pilotage by the commissioned bar pilot or by his authorized representative, including but not limited to advice concerning weather, channel conditions, and other navigational conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:357 (March 2003).

§1409. Prohibition of Interest of Members of Board of Commissioners of Port of New Orleans, in Pilot Boat or Pilotage

A. The members of the Board of Commissioners of the Port of New Orleans shall not be interested, directly or indirectly, in any bar pilot boat or pilotage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:357 (March 2003).

§1410. Report by Pilot

A. In any case where a vessel being piloted by a bar pilot shall go aground, or shall collide with any object, or shall meet with any casualty, which causes injury to persons or damage to property, the pilot shall, as soon as possible report such incident to the board.

B. The board, with or without complaint made against said pilot, shall investigate the incident.

C. The pilot shall make a complete report to the board within 10 days after the incident. This report may either be an oral or a written report as the board deems necessary.

D. These Rules shall apply to any bar pilot engaged in piloting within the operating territory as defined by R.S. 34:941 et seq., whether the vessel be subject to compulsory pilotage or elective pilotage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:357 (March 2003).

§1411. Pilots Duty to Report

A. Pilots, when notified, shall report in person to the board at the time and place so designated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:357 (March 2003).

§1412. Pilots Summoned to Testify

A. Any bar pilot summoned to testify before the board shall appear in accordance with such summons and shall make answer under oath to any question put to him, touching any matter connected with the pilot's service or of the pilot grounds over which he is commissioned to pilot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:357 (March 2003).

Chapter 15. Drug and Alcohol Policy

§1501. Application

A. The board of examiners hereby adopts the following Rules and regulations relating to a drug and alcohol abuse policy applicable to all state licensed bar pilots pursuant to the provisions of R.S. 34:941 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:357 (March 2003).

§1502. Statement of Findings and Purposes

A. The Board of Examiners of Bar Pilots for the Port of New Orleans, Louisiana, (hereinafter "board") has always had a strong commitment to the pilot members of the Associated Branch Pilots for the Port of New Orleans to provide a safe work place and to establish programs promoting high standards of bar pilot health. Consistent with the spirit and intent of this commitment, the board has established this policy regarding drug and alcohol abuse. Its goal will continue to be one of establishing and maintaining a work environment that is free from the effects of alcohol and drug abuse.

B. While the board has no intention of intruding into the private lives of bar pilots, the board does expect bar pilots to report for work in a condition to perform their duties. The board recognizes that off-the-job, as well as on-the-job, involvement with alcohol and drugs can have an impact on the work place and on a bar pilot's ability to accomplish our goal of an alcohol and drug-free work environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:357 (March 2003).

§1503. Bar Pilots' Assistance Program

A. Establishment. The board has designed a Bar Pilots' Assistance Program (BPAP) to provide help for any bar pilot whose personal alcohol or drug abuse problems may seriously affect his or her ability to function on the job, at home and in society.

B. Eligibility. The BPAP is available to all bar pilots and their spouses because an alcohol or drug abuse problem of a spouse may also affect a bar pilot's work and general well-being.

C. Procedure

1. At times, people find the solution to their own problems. When this cannot be accomplished, a BPAP staff person will discuss the bar pilot's problem with him and put him in touch with appropriate professional sources.

2. The bar pilot or spouse will then be advised of available alternatives for treatment, counseling or help, and assisted in arranging an appointment. When an eligible person requests assistance, that person decides whether or not he or she wants to pursue the recommendation.

3. The BPAP will either provide assistance by telephone or will arrange for a confidential consultation in their private offices.

D. Costs. If the counseled person needs to be referred to resources outside the BPAP, then he or she is responsible for all fees.

E. Confidentiality. A bar pilot's right to confidentiality and privacy in the BPAP is recognized. All information regarding referral, evaluation, and treatment will be maintained in a confidential manner and no BPAP matters will be entered in a bar pilot's personal file except as is mandated by law. A request for evaluation, diagnosis, information, or treatment will not affect this board's actions or recommendations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:357 (March 2003).

§1504. Definitions

A. As used in this Chapter:

Alcoholic Beverage Any fluid, or solid capable of being converted into fluid, suitable for human consumption, which contains ethanol.

Drug Call controlled dangerous substances as defined in R.S. 40:961.7. Some of the drugs which are illegal under Federal, State, or local laws include, among others, marijuana, heroin, hashish, cocaine, hallucinogens, and depressants and stimulants not prescribed for current personal treatment by an accredited physician.

Prescription Medication Any medication distributed by the authorization of a licensed physician as defined in R.S. 40:961.30.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:358 (March 2003).

§1505. Prohibitions and Requirements of the Policy

A. A bar pilot who is under the influence of alcohol or drugs, or who possesses or uses alcohol or drugs on the job, has the potential for interfering with his own safety as well as that of the ship he is piloting and other vessels in the area, property, and personnel. Consistent with existing board practices, such conditions shall be proper cause for disciplinary action up to and including loss of state license as a bar pilot.

B.1. Off-the-job drug or alcohol abuse use that could adversely affect a bar pilot's job performance or could jeopardize the safety of others shall be proper cause for administrative or disciplinary action up to and including recommendation for revocation of a bar pilot's license.

2. Bar pilots who are arrested for off-the-job drug or alcohol activity may be considered to be in violation of this policy. In deciding what action to take, the board will take into consideration the nature of the charges, the bar pilot's overall job performance as a pilot, and other factors relative to the impact of the bar pilot's arrest upon the conduct of bar pilotage and the safety threat posed to the public by the specific activity.

C.1. A pilot shall be free of use of any drug as defined in §1504.A.*Drug*, but excluding prescription medication as defined in §1504.A.*Prescription Medication*, so long as such use of prescription medication does not impair the competence of the pilot to discharge his duties.

2. Bar pilots undergoing prescribed medical treatment with a controlled substance should report this treatment to the president of the board and to the associated branch pilots doctor. The use of controlled substances as part of a prescribed medical treatment program is naturally not grounds for disciplinary action, although it is important for the board to know such use is occurring.

D. A bar pilot who voluntarily requests assistance in dealing with a personal drug or alcohol abuse problem may participate in the BPAP without the board taking action to fine or recommend action against a bar pilot, provided he stops any and all involvement with alcohol or drugs. Volunteering to participate in the BPAP will not prevent disciplinary action for a violation of this policy which has already occurred.

E.1. Narcotics or any other controlled dangerous substance made illegal by the laws of the United States or the state of Louisiana shall not be brought aboard or caused to be brought aboard any vessel no matter by whom owned, or property owned or leased by the associated branch pilots.

2. Persons, or property, coming aboard any such vessel or property will be subject to inspection.

3. The board will cooperate fully with appropriate law enforcement agencies by reporting information with respect to the violation of laws regarding illegal substances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:358 (March 2003).

§1506. Drug Testing

A. Drug Investigated. All bar pilots shall be subject to testing for the presence of marijuana, opiates, cocaine, amphetamines, and phencyclidine.

B. Types of Testing

1. All bar pilots shall submit to reasonable scientific testing for drugs when directed by the board. All procedures and activities conducted in connection with such testing shall comply with R.S. 49:1001-1015, as those provisions may be amended from time to time.

2. A bar pilot shall be required to submit a urine specimen to be tested for the presence of drugs under the following circumstances:

a. prior to recommendation for appointment, as a part of the physical exam required in §1106.A.7 of these Rules and regulations;

b. after recommendation, whenever the pilot is required by the board to undergo a physical examination;

c. upon written complaint signed by the complainant in accordance with Chapter 16 of the Board of Review of Bar Pilots for the Port of New Orleans;

d. when the pilot is reasonably suspected of using drugs in violation of this policy;

e. at random at the discretion of the board; and

f. when the pilot is determined to be directly involved in a marine casualty or accident during the course of his activities as a pilot that results in:

i. one or more deaths;

ii. injury to any person which requires professional medical treatment beyond first aid;

iii. damage to property in excess of \$100,000; or

iv. actual or constructive loss of any vessel.

C. The board may designate a testing agency to perform any scientific test(s) necessary to detect the presence of drugs or their metabolites in a pilot's system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:358 (March 2003).

§1507. Alcohol Testing

A. The board of examiners may require a pilot to submit to a blood alcohol test under the following circumstances:

1. upon written complaint signed by the complainant in accordance with Chapter 16 of the Rules and regulations of the Board of Review of Bar Pilots of the Port of New Orleans;

2. when there exists reasonable suspicion that a pilot is performing his duties while under the influence of alcohol; or

3. when the pilot is determined to be directly involved in a marine casualty or accident of the type described in Section 806(B)(2)(d).

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:359 (March 2003).

§1508. Violations of the Policy

A. Any pilot found to be in violation of this policy may be reprimanded, fined, evaluated, and treated for drug use and have his commission suspended or revoked as provided by R.S. 34:945 and 962.

B. Any bar pilot reasonably suspected of bringing on board any vessel, no matter by whom owned, or property owned or leased by the association, or causing to bring on board a vessel or property owned or leased by the association, any narcotic or any other controlled dangerous substance made illegal by the laws of the United States of the State of Louisiana will be subject to disciplinary action either by the board or, upon recommendation of the board, by the governor of Louisiana.

C. A pilot shall be suspended from performing the duties of a pilot pending a hearing pursuant to R.S. 34:945 and 962 if:

1. he tests positive for any drug listed in §1506.A;
2. he uses any drug in violation of §1505.C;
3. he refuses to submit to reasonable scientific testing for drugs, fails to cooperate fully with the testing procedures, or in any way tries to alter the test results;
4. tests positive for alcohol; or
5. refuses to submit to a blood alcohol test, fails to cooperate fully with the testing procedure, or in any way tries to alter the test results.

D. Any pilot who is required to undergo evaluation or treatment for alcoholism or drug abuse shall do so at his own personal expense and responsibility; the physician, as well as the evaluation and treatment facility, must be approved by the board.

E. Any pilot who believes he would be in violation of these Rules if he were to perform his duties as a bar pilot is obligated to remove himself from duty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:359 (March 2003).

§1509. Test Results

A. All drug test results shall be reviewed by a medical review officer in accordance with R.S. 49:1007.

B. Any pilot, confirmed positive, upon his written request, shall have the right of access, within seven working days of actual notice to him of his test results, to records relating to his drug tests and any records relating to the results of any relevant certification, review, or suspension/revocation-of-certification proceedings.

C. The results of the drug testing conducted pursuant to this policy and all information, interviews, reports, statements and memoranda relating to the drug testing shall, in accordance with R.S. 49:1012, be confidential and disclosed only to the board of examiners and the pilot tested, except that:

1. the board of examiners may report the results to the governor; and

2. in the event that the board of examiners determines that a hearing is required pursuant to R.S. 34:991 or 1001, there shall be no requirement of confidentiality in connection with such hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:359 (March 2003).

Chapter 16. Administrative Policy

§1601. Application

A. The purpose of this section is to ensure compliance by the Board of Examiners of Bar Pilots for the Port of New Orleans with the provisions of the Louisiana Public Meeting Law and the records maintenance requirements of the provisions of R.S. 49:950, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:359 (March 2003).

§1602. Meetings of Examiners

A. All meetings and notices thereof of the board of examiners shall be conducted in accordance with the Open Meetings Law (R.S. 42.4 et seq.). The board shall meet at least once each quarter and meetings shall be called in accordance with R.S. 42:7.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:359 (March 2003).

§1603. Record Keeping

A. The board of examiners shall maintain records and conduct its hearings in accordance with R.S. 49:950, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:945.C.1.

HISTORICAL NOTE: Promulgated by the Board of Examiners of Bar Pilots for the Port of New Orleans, LR 29:359 (March 2003).

Chris Keaton
Undersecretary

0303#019

RULE

Department of Public Safety and Corrections Office of Corrections Services

Telephone Use and Policy on Monitoring of Calls CAdult and Juvenile (LAC 22:I.314)

In accordance with the Administrative Procedure Act, R.S. 49:953(B), the Department of Public Safety and Corrections, Corrections Services, hereby repeals in its entirety, LAC 22:I.314, Adult Offender Telephone Use, and adopts LAC 22:I.314, Telephone Use and Policy on Monitoring of Calls CAdult and Juvenile.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 3. Adult and Juvenile Services

Subchapter A. General

§314. Telephone Use and Policy on Monitoring of Calls CAdult and Juvenile

A. Purpose. The purpose of this regulation is to establish the secretary's policy regarding the use of telephones by inmates and the monitoring of inmate telephone calls at all adult and juvenile institutions.

B. To Whom This Regulation Applies. This regulation applies to deputy secretary, undersecretary, assistant secretaries and all wardens. It is the responsibility of each warden to implement this regulation and convey its contents to the inmate population, employees, and the public.

C. Policy. It is the secretary's policy that uniform telephone procedures Cincluding the ability to monitor and/or record inmate telephone calls to preserve the security and orderly management of the institution and to protect the public safety Cbe established and adhered to at all institutions. Each institution will offer inmates (including the hearing impaired) reasonable access to telephone communication without overtaxing the institution's ability to properly maintain security and to avoid abuse of this privilege on the part of any inmate.

D. Definition. Inmate refers to anyone committed to the custody of the department whether as an adult or juvenile in this context.

E. Procedures

1. General

a. Each inmate will be assigned a personal identification number (PIN) which must be used when placing outgoing telephone calls. The PIN will be the inmate's DOC number or JIRMS number.

b. At the juvenile institutions, one unique PIN, not the inmate's JIRMS number, will be utilized for calling the PZT Hotline only.

c. Each inmate will provide his assigned institution a master list of up to 20 frequently called telephone numbers inclusive of all family, personal, and legal calls. Each inmate's outgoing telephone calls will be limited to those telephone numbers he has placed on his master list. Changes may be made to the master list at the discretion of the warden, but no less than once each quarter. These changes may be input by the contractor or by appropriately trained institutional staff.

i. Changes to the master list for parents of juvenile offenders and attorneys representing a juvenile offender are to be expedited. All attempts should be made to institute such changes within six working days. For parents, the six days shall begin from written notification by the offender to the appropriate institutional staff. For an attorney, the time period shall begin upon receipt of the offender's written request to the appropriate institutional staff, if the offender is 18 years or older. For offenders under the age of 18, the time period shall begin upon receipt of written notice from the parent confirming the attorney as the legal representative of their child.

d. At juvenile institutions, regardless of custody status, offenders will be provided an opportunity to make telephone calls home at state expense when the offender's case worker determines that the call promotes the goal of the offender's intervention plan.

i. Offenders will also be given meaningful access to telephones for privileged communications with their attorneys.

e. For new inmates, PIN and master list numbers will be input into the telephone system upon intake at the Reception and Diagnostic Centers.

f. Upon the request of a telephone subscriber, the institution may block a telephone number and prevent the subscriber from receiving calls from an inmate housed in the facility. To accomplish a block of a particular number for all state facilities, the institution should contact the contractor to request that a universal block be put into place.

2. Dormitory Housing CMinimum or Medium Custody

a. Personal or Family Calls (Routine). Collect telephone access should be available on a relatively non-restricted basis. The specific hours in the various living areas at the individual institutions shall be established by the Warden of each institution. The Warden shall communicate the telephone schedule to the inmate population. A time limit should be established.

b. Personal or Family Calls (Emergency). Requests for access outside of normally scheduled hours may be made through the dormitory officer, counselor, or shift supervisor.

c. Legal Calls. The Warden shall establish a schedule for legal calls. Inmates are generally able to place legal calls during the lunch period or after the afternoon count (when "normal office hours" are in effect for attorneys). The Warden should establish an alternate procedure if this is not adequate.

3. Cellblock Housing CMaximum Custody

a. Personal or Family Calls (Routine). Collect telephone access is generally located in the cellblock lobby. (In those situations where the telephone is on the tier, the inmate may be allowed access during the shower or exercise period.) Lobby placement may restrict inmate access. Therefore, posted policy may limit routine personal calls for inmates assigned to cellblocks. Access may vary by inmate classification status. A time limit should be established.

b. Personal or Family Calls (Emergency). In all subclasses of maximum custody, the inmate is required to request consideration for this type call from the warden's designee (shift supervisor, unit major, or program staff) who decides if the justification the inmate presents warrants the request. That decision is then logged. No frequency for this

type call is established as the severity and duration of the emergency may vary.

NOTE: Please refer to the "Emergency Review" provisions of the Administrative Remedy Procedure. Timely review can be solicited by the inmate.

c. Legal Calls. The warden shall establish a procedure for placing legal calls on a reasonable basis during normal attorney office hours. Each housing unit shall maintain a legal telephone log for the purpose of monitoring the number of legal calls made by inmates on a weekly basis.

4. Incoming Calls.

a. Personal or Family Calls (Routine). Messages are not accepted or relayed on a routine basis for any inmate.

b. Personal or Family Calls (Emergency). The warden should establish a procedure for inmate notification of legitimate personal or family emergencies communicated to the institution.

c. Legal Calls. Inmates may be given notice that their attorney has requested contact. Complete verification is required prior to processing. If minimum or medium custody, the inmate may call from the dormitory during lunch or after work. If maximum custody, the inmate may be allowed to call during normal attorney office hours at a time which does not interfere with orderly operation of the unit.

5. Monitoring

a. Inmates shall be put on notice of the following.

i. Telephone calls in housing areas are subject to being monitored and/or recorded and that "use" constitutes "consent."

ii. It is the inmate's responsibility to advise all other parties that conversations are subject to being monitored and/or recorded.

iii. A properly placed telephone call to an attorney will not be monitored and/or recorded unless reasonable suspicion of illicit activity has resulted in a formal investigation and such action has been authorized by the secretary or designee.

iv. The telephone system will normally terminate a call at the end of the authorized period, (normally 15 minutes); however, the warden or his designee may authorize calls of a longer duration as circumstances warrant.

v. The system will automatically broadcast recorded messages indicating that the telephone call is originating from a correctional facility.

b. Inmates shall not be allowed access to employee home telephone numbers and shall not be allowed to call any staff member of the department.

c. Each institution will advise their inmate population of the proper way to place a legal call.

d. Only personnel authorized by the warden may monitor inmate telephone calls. Information gained from monitoring calls which affects the security of the institution or threatens the protection of the public will be communicated to other staff members or other law enforcement agencies. Telephone calls to attorneys may not be routinely monitored (see Clause E.5.a.iii of this Section); staff will immediately disconnect from any inmate telephone call if it appears that is the case. All other information shall be held in strict confidence.

e. Inmates being processed into the system through the Reception and Diagnostic Centers will be required to "consent" in writing that their telephone calls are subject to being monitored and/or recorded. A copy of this "consent" shall be placed in the inmate's institutional record.

f. Each institution's orientation manual must include the information contained in this regulation as a means to notify the inmate population and verbal notification must be given in their orientation program. Existing inmate populations shall be put on notice by a sign posted at each inmate telephone. The sign shall reflect the following information:

6. Remote Call Forwarding

a. Remote Call Forwarding (RCF) is a mechanism by which inmates employ a local telephone number that automatically forwards the telephone call to a pre-selected number generally located out of the local calling area code or long distance. RCF in essence is an automated three-way call.

b. RCF is also known as automated call forwarding or PBX call forwarding. Use of this automated and remote mechanism represents significant security risks for several reasons. The telephone call terminated number (the end destination of the call) cannot be readily identified or verified. This number is not a traditional telephone number located at a residence, business or other such location but merely a number within the telephone switching equipment local to the facility where the inmate is housed.

c. RCF initiated calls to an unidentified terminated number can and are being easily forwarded again to a cell phone and other unauthorized telephones. This forwarding is done through the normal three-way call hook ups. This in fact negates the security mechanisms achieved by the requirement of approved telephone lists. Safeguards to prevent calls to victims, to blocked or restricted numbers or to prevent other unauthorized call activities are defeated by the use of an RCF number.

d. RCF usage creates an opportunity to conduct criminal or illegal or un-authorized activities since the end call location is not readily being identified, verified or its actual location known. This affords untold opportunity for inmates to engage in potential scams, to call victims, to facilitate escape attempts and to engage in other conduct representing significant security risks to the facility.

e. The inmate population should be put on notice that all third-party telephone calls, including RCF calls, are strictly prohibited and such activity will result in appropriate disciplinary action.

f. Wardens shall develop a monitoring system to analyze the frequency of local calls. High frequency may indicate RCF utilization. When RCF calls are discovered, a system wide block of the number should be initiated pursuant to Subparagraph E.1.f of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:829.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Correction Services, LR 29:360 (March 2003).

Richard L. Stalder
Secretary

0303#024

RULE

**Department of Public Safety and Corrections
Gaming Control Board**

Definitions, General Provisions/Authority of the Division, Imposition of Sanctions, Application and License, Surveillance and Division Room Requirements, Enforcement Actions of the Board (LAC 42:VII.1701, 2101, 2325; IX. 2101, 4103; XI. 2405; XIII.1701, 2101, 2325, and 3305)

The Louisiana Gaming Control Board hereby adopts amendments to LAC 42:VII.1701, 2101, 2325, IX.2101, 4103, XI.2405, XIII.1701, 2101, 2325, and 3305, in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 42

LOUISIANA GAMING

Part VII. Pari-Mutuel Live Racing Facility Slot Machine Gaming

Chapter 17. General Provisions

§1701. Definitions

A. As used in the regulations, the following terms have the meaning described below.

Affiliate Any person who directly or indirectly controls, is controlled by, or is under common control of another person.

Person Any individual, partnership, association, joint stock association, trust, corporation, or other business entity whether incorporated or not.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:728 (April 2000), LR 29:362 (March 2003).

Chapter 21. Licenses and Permits

§2101. General Authority of the Board and Division

A. The board and/or the division shall have the authority to call forth any person who, in the board and/or division's opinion, has the ability to exercise influence over a licensee, permittee, applicant or the gaming industry, and such person shall be subject to all suitability requirements. In the event a person is found unsuitable, then no licensee, permittee or applicant shall have any association or connection with such person. No licensee, permittee or applicant shall have any association or connection with any person that has had an application for a license or permit denied or had a license or permit revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:732 (April 2000), LR 29:362 (March 2003).

Chapter 23. Compliance, Inspections, and Investigations

§2325. Imposition of Sanctions

A. - D. ...

E. Penalty Schedule

Section Reference	Description	Base Fine	Proscriptive Period (Months)

4209	Approval of New Electronic Gaming Devices	5,000	12

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 27:1321 (June 2000), amended LR 27:225 (December 2001), LR 28:1028 (May 2002), repromulgated LR 28:2371 (November 2002), LR 29:362 (March 2003).

Part IX. Landbased Casino Gaming

Subpart 1. Economic Development and Gaming Corporation

Chapter 21. Applications; Suitability, Permitting and Licensing

§2101. General Provisions

A. The board and/or division shall have the authority to call forth any person who, in the board and/or division's opinion, exercises influence over the Casino Operator, Casino Manager, a Permittee, an Applicant or the gaming industry, and such person shall be subject to all suitability requirements. In the event a person is found unsuitable, then no Casino Operator, Casino Manager, Permittee or Applicant shall have any association or connection with such person. No Casino Operator, Casino Manager, Permittee or Applicant shall have any association or connection with any person that has had an application for a license or permit denied or had a license or permit revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1907 (October 1999), LR 29:362 (March 2003).

Chapter 41. Enforcement Actions

§4103. Enforcement Actions of the Board

A. - B. ...

C. Penalty Schedule

Section Reference	Description	Base Fine	Proscriptive Period (Months)

4209	Approval of New Electronic Gaming Devices	5,000	12

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:1974 (October 1999), amended LR 26:2307 (October 2000), LR 27:2255 (December 2001), repromulgated LR 28:344 (February 2002), LR 28:1029 (May 2002), LR 29:362 (March 2003).

Part XI. Video Poker

Chapter 24. Video Draw Poker

§2405. Application and License

A. New and Renewal Applications

1. All applications for a license shall be submitted on forms provided by the division and mailed to: Louisiana

State Police, Gaming Enforcement Section, Video Gaming Division, at the address provided by the division.

2. - 15. ...

B. Requirements for Licensing

1. - 3.b. ...

c. If a licensee fails to file a complete renewal application on or before forty five days prior to the license expiration date, the division may assess a civil penalty of \$250 for the first violation, \$500 for the second violation and \$1000 for the third violation.

4. The appropriate annual fee shall be paid by all licensees regardless of the expiration date of the license on or before July 1 of each year.

5. If a renewal application has not been filed with the division on or before close of business on the date of expiration, the license is expired, and a new application, along with all appropriate fees, shall be required to be filed.

B.6. - D.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), LR 24:955 (May 1998), LR 26:346 (February 2000), LR 26:2322 (October 2000), LR 27:61 (January 2001), LR 29:362 (March 2003).

Part XIII. Riverboat Gaming

Subpart 2. State Police Riverboat Gaming Division

Chapter 17. General Provisions

§1701. Definitions

A. As used in the regulations, the following terms have the meaning described below.

Affiliate Any person who directly or indirectly controls, is controlled by, or is under common control of another person.

Person Any individual, partnership, association, joint stock association, trust, corporation, or other business entity whether incorporated or not.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.; R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:1176 (September 1993), amended LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:1139 (November 1996), LR 24:344 (February 1998), LR 26:1317 (June 2000), LR 29:363 (March 2003).

Chapter 21. Licensees and Permits

§2101. General Authority of the Division

A. The board and/or division shall have the authority to call forth any person who, in the board and/or division's opinion, exercises influence over a licensee, permittee, applicant or the gaming industry, and such person shall be subject to all suitability requirements. In the event a person is found unsuitable, then no licensee, permittee, or applicant shall have any association or connection with such person. No licensee, permittee, or applicant shall have any association or connection with any person that has had an

application for a license or permit denied or had a license or permit revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.; R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 19:1176 (September 1993), amended LR 21:702 (July 1995), LR 29:363 (March 2003).

Chapter 23. Compliance, Inspections and Investigations

§2325. Imposition of Sanctions

A. - D. ...

E. Penalty Schedule

Section Reference	Description	Base Fine	Proscriptive Period (Months)

4209	Approval of New Electronic Gaming Devices	5,000	12

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 26.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Gaming Control Board, LR 26:1318 (June 2000), LR 27:2255 (December 2001), LR 28:1029 (May 2002), LR 29:363 (March 2003).

Chapter 33. Surveillance and Security

§3305. Surveillance and Division Room Requirements

A. There shall be, for the exclusive use of division agents and for the use by employees of the riverboat gaming operation, rooms approved by the division for monitoring and recording purposes. The room for the exclusive use of the division shall be designated the division room. The room for the use of the employees of the riverboat gaming operation shall be designated the surveillance room.

B. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:501 et seq.; R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 27:1559 (September 2001), LR 29:363 (March 2003).

Hillary J. Crain
Chairman

0303#098

RULE

**Department of Revenue
Policy Services Division**

Alternative Dispute Resolution
(LAC 61:III.301-335)

Under the authority of R.S. 47:1511 and 1522 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of the Secretary adopts LAC 61:III.301-

335, the rules and regulations governing alternative dispute resolution.

The secretary of the Department of Revenue is authorized by R.S. 47:1511 to adopt reasonable rules and regulations to enforce the provisions relating to the taxes collected and administered by the department. Louisiana Administrative Code Title 61, Part III, §§301-335, establishes the method and the procedures available to implement R.S. 47:1522, which allows the Department of Revenue to use alternative dispute resolution as a means of resolving issues between the taxpayer and the department. Alternative dispute resolution will provide a voluntary, confidential and cooperative means of resolving tax disputes of less than \$1 million, which will reduce the costs and risks of litigation for the taxpayer and the department. Alternative dispute resolution will also expedite the tax collection and refund processes. The rules and regulations for the department's Alternative Dispute Resolution Program are modeled on the Multistate Tax Commission's Alternative Dispute Resolution Program.

Title 61

REVENUE AND TAXATION

Part III. Department of Revenue; Administrative Provisions and Miscellaneous

Chapter 3. Alternative Dispute Resolution Procedures

§301. Definitions

A. For purposes of this chapter, the following terms have the meanings ascribed to them.

Alternative Dispute Resolution—procedures for settling disputes by means other than litigation.

Arbitration—a binding process in which the department and taxpayer submit disputed issues and evidence to an arbitrator and a decision is rendered by the arbitrator.

Arbitrator—a neutral third party chosen by the department and taxpayer to hear their claims and render a decision.

Enrolled Agent—an individual who has demonstrated technical competence in the field of taxation and is licensed to represent taxpayers before all administrative levels of the Internal Revenue Service.

Hearing—a proceeding in which a neutral third party receives testimony or arguments and reviews documents to determine issues of fact and legal conclusions in order to render a decision based on the evidence presented.

Party—a taxpayer or department representative involved in an alternative dispute resolution process.

Secretary—the Secretary of the Louisiana Department of Revenue.

Session—the period of time during which the arbitrator meets with the parties to discuss the issues and listens to the arguments presented in order to reach a decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:364 (March 2003).

§303. Type of Alternative Dispute Resolution Process

A. The disputed issue(s) may be resolved by arbitration as agreed upon by the taxpayer and the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:364 (March 2003).

§305. Initiation of Arbitration

A. The secretary may select cases whose total value as of the date of selection for binding arbitration is less than \$1 million. Once a case has been selected for arbitration, notice will be sent to the taxpayer regarding the selection within 30 days.

B. The taxpayer may give written notice to the department of the taxpayer's desire to participate in arbitration. The notice must be signed by the taxpayer or representative of the taxpayer and contain the taxpayer's name, tax identification number, address, telephone number, fax number, and e-mail address and the taxpayer's representative e-mail address as well as a brief description of the nature of the dispute and the issues. The notice must also state the relief requested, the reasons supporting the relief, and any other relevant and reliable information supporting the claim.

C. Neither the department nor the taxpayer has the right to mandate or force the opposing party into arbitration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:364 (March 2003).

§307. Persons Authorized to Participate in Arbitration

A. Individuals, Partnerships, and Corporations. Any individual taxpayer participating in arbitration with the department may appear and act for himself or for a partnership of which he is a partner with authority to act on behalf of the partnership's members. A corporation, limited liability company, or limited liability partnership may be represented by a bona fide officer of the corporation upon presentation of a corporate resolution or other documentation evidencing the officer's authority to act on behalf of the organization.

B. Attorneys. Attorneys at law, qualified and licensed under the laws of the state, are entitled to represent any taxpayer participating in arbitration with the department. The arbitrator may permit attorneys at law, qualified and licensed under the laws of the several states or the District of Columbia to represent any taxpayer participating in arbitration with the department, in the same manner as these attorneys are permitted to practice in the courts of Louisiana.

C. Certified Public Accountants. Certified public accountants qualified and licensed under the laws of the state are entitled to represent any taxpayer participating in arbitration with the department. The arbitrator may permit certified public accountants, qualified and licensed under the laws of the several states or the District of Columbia to represent any taxpayer participating in arbitration with the department, in the same manner as these certified public accountants are permitted to practice in Louisiana.

D. Enrolled Agents. Enrolled agents qualified and licensed to practice before the Internal Revenue Service are entitled to represent any taxpayer participating in arbitration with the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:364 (March 2003).

§309. Registry of Arbitrators

A. The department will maintain a registry of arbitration companies authorized to participate in the alternative dispute resolution process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:364 (March 2003).

§311. Time Delay for Providing Names of Arbitrators

A. As soon as practical, but not more than 30 business days after consent of the parties to participate in arbitration, the department will send to the taxpayer or the taxpayer's representative the names of potential arbitration companies to provide case management services for the arbitration session.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:365 (March 2003).

§313. Selection of Arbitration Company

A. The department and taxpayer will select an arbitration company from the Registry maintained by the department. The arbitration company will select the arbitrator to preside over the matter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:365 (March 2003).

§315. Disclosure of Conflict of Interest

A. An arbitrator must have no official, financial, or personal conflict of interest with any issue or party in controversy unless the conflict of interest is fully disclosed, in writing, to all parties and all parties agree, in writing, that the person may continue to serve. If an arbitrator is disqualified by either party, another arbitrator will be selected by the arbitration company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:365 (March 2003).

§317. Procedures for Arbitration

A. The arbitrator will take necessary steps to avoid delay and to achieve a just, speedy, and cost-effective resolution. The department and taxpayer will cooperate in the exchange of documents, exhibits, and information within either party's control. In addition, the department and taxpayer may conduct discovery as agreed upon by all parties. However, the arbitrator may provide for or place limitations on the discovery as the arbitrator deems appropriate. At the request of the department or the taxpayer, the arbitrator may require the deposition of any person who may possess information vital to the just resolution of the matter.

B. The arbitrator will select a hearing date. Each party must notify the arbitrator in writing at least 10 business days before the initial arbitration session of the following:

1. the party's intention to present witnesses;
2. whether the party will be represented by counsel; and
3. who will be present at the arbitration.

C. The department and taxpayer must submit a brief statement of facts, law, and issues to be resolved. The statement may not exceed 15 legal-size pages without prior approval from the arbitrator.

D. The arbitrator will distribute to the department and taxpayer the information provided in Subsection B and inform the parties of the arbitration process to be followed at least five business days before the initial arbitration session.

Except where specified in the regulation, the arbitrator will determine the process to be followed.

E. The rules of evidence in arbitration will be the rules of evidence followed in the state district courts of Louisiana.

F. Any party desiring a stenographic or other recording of the proceedings must make arrangements directly with a stenographer or the person responsible for recording the proceedings. The party seeking to record the proceeding must notify the arbitrator and all other parties of the arrangements at least five business days before the arbitration hearing. The requesting party or parties shall pay the recording costs and the recording or transcript shall be made available to the arbitrator and the other parties for inspection and copying at a date, time, and place determined by the arbitrator.

G. If an arbitration decision is rendered on a case pending in any state court or the Louisiana Board of Tax Appeals, the decision will be entered in the court records.

H. The decision by the arbitrator will be made promptly and, unless otherwise agreed by the parties or specified by law, no later than 30 business days from the date of the closing of the arbitration hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:365 (March 2003).

§319. Discovery

A. The arbitrator will set forth the conditions of discovery. Any extensions of discovery must be in writing and approved by the arbitrator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:365 (March 2003).

§321. Arbitration Hearing

A. In order to facilitate the arbitration process, the selected arbitrator will conduct hearings. Each party will be given an opportunity to present the facts, evidence, and argument that support its position regarding the disputed tax issue at the hearing. Hearings will be private and all matters will remain confidential. The only individuals who may participate in hearings will be the taxpayer, taxpayer representatives, department representatives, and any witnesses to be called.

B. Date, Time and Place of Hearing. Hearings will be held at the LaSalle Building in Baton Rouge or at any other place designated by the arbitrator with consideration given to the location and convenience of the parties and their witnesses. All witnesses will be sequestered prior to giving testimony.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:365 (March 2003).

§323. Sequence of the Arbitration Hearing

A. Unless otherwise determined by the arbitrator, the following sequence will be followed at the hearing.

1. Introduction. The arbitrator may make an introduction.

2. Opening Statements. The taxpayer or his representative will make an opening statement followed by the department's representative.

3. Taxpayer's Case. The taxpayer may introduce evidence, examine witnesses, and submit exhibits. The department's attorney or representative may cross-examine the witnesses.

4. Department's Case. The department may introduce evidence, examine witnesses, and submit exhibits. The taxpayer or taxpayer's representative may cross-examine the witnesses.

5. Evidence Procedure. Each party will have the opportunity to present relevant and credible evidence during the hearing. All statements will be made under oath administered by the arbitrator. The Rules of Evidence followed in the state district courts of Louisiana will apply to all evidence presented and objections will be permitted.

6. Rebuttal. Presentation of the evidence of the taxpayer in rebuttal and the argument of the taxpayer followed by the argument of the department, and of the taxpayer in rebuttal.

7. Summation. Each party may present a closing statement.

8. Concluding Remarks. The arbitrator may make closing remarks concerning the case.

9. Judgment. The arbitrator shall render a decision within 30 business days after the date of the close of the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:365 (March 2003).

§325. Ex Parte Communication with the Arbitrator

A. No party or party representative may directly communicate with an arbitrator except at a hearing or during a scheduled conference concerning any issue related to the arbitration matter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:366 (March 2003).

§327. Privacy

A. All arbitration sessions are private and confidential. To ensure the privacy of the arbitration sessions, only the parties and their representatives may attend the sessions. All parties participating in or attending a session are required to sign a confidentiality agreement. Any party that violates this confidentiality provision is subject to sanctions at the request of the other party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:366 (March 2003).

§329. Confidentiality

A. Except as authorized or required by law, no one participating in the session may disclose the existence, content, or results of the session without the written consent of all parties. Each participant to any process conducted, including the arbitrator, must execute a confidentiality agreement before beginning arbitration. Except as authorized, required, or consented to, no party, arbitrator, or any agent or other representative may make public, offer or introduce as evidence, or otherwise refer to in any

administrative, judicial, or other proceeding, any statement made or any document or item of evidence provided during arbitration or any finding, conclusion, order, or result, or lack thereof relating to the process. This prohibition applies but is not limited to the following matters:

1. views expressed or suggestions made by a party with respect to possible settlement of the dispute;

2. admissions made by any party during arbitration;

3. statements made or views expressed by any witnesses, arbitrator, or other persons privy to the arbitration session; or

4. the fact that another party had or had not indicated a willingness to accept a proposal settlement.

B. The arbitrator is subject to the terms and conditions set forth in R.S. 47:1508 regarding the confidential character of tax records.

C. All returns, reports, and other documents presented during the arbitration session may be destroyed by order of the secretary after five years from the last day of December of the year in which the tax to which the records pertain became due, but not less than one year after receipt of the last payment of tax to which the records pertain.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:366 (March 2003).

§331. Fees and Expenses

A. Each party will bear the fees and expenses for its own counsel, expert witnesses, travel, and preparation and presentation of its case. Except as otherwise agreed by the parties, the fees and expenses of the arbitrator will be borne equally by the taxpayer and the department in accordance with the arbitration company's fee schedule.

B. If an arbitration session has been scheduled and a party fails to appear at the session, the party failing to appear will be responsible for the payment of the reasonable costs and fees of the arbitrator and the reasonable travel expenses incurred by the other party, unless the party has provided reasonable notice in writing to the arbitrator and all other parties that they will not appear. It will be presumed, subject to a contrary showing under the circumstances, that giving five business days advanced written notice is reasonable notice.

C. If reasonable notice is not provided, the arbitrator shall determine if there was good cause for the failure to appear.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:366 (March 2003).

§333. Taxpayer's Duty to Protect Protests and Appeals

A. It is the duty of the taxpayer to protect his right to protest or appeal any assessment or proposed assessment or to pursue any right to refund relating to any issue that may also be subject to the arbitration process. Compliance with all conditions and time limits for perfecting and pursuing any and all administrative and judicial protests and appeals or requests for refund are the sole responsibility of the taxpayer. Any agreement between a taxpayer, taxpayer

representative, and a representative of the department to alter the conditions or time limits must be authorized by the secretary of the Department of Revenue and executed in writing by both parties to be effective.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:366 (March 2003).

§335. Notice of a Waiver or Extension

A. When required by any party, notice that a written waiver or extension of any and all applicable prescriptive periods must be executed to each party's satisfaction. No party will be required to execute any waiver or extension of a statutory limitation as a condition of participating in an alternative dispute resolution process. Unless otherwise agreed to by the parties, any waiver or extension of prescription will apply to only those issues agreed upon as subject to the alternative dispute resolution process. If a written waiver or extension is required by a party, no alternative dispute resolution process will begin until an agreement has been executed.

B. The department and taxpayer will have 30 business days to resolve the issues and execute the waiver or extension. If no agreement is reached during that period of time, the arbitrator will terminate the alternative dispute resolution process. In the event that an alternative dispute resolution process has been terminated, the parties have a right to initiate a new alternative dispute resolution process. If the second attempt to initiate an alternative dispute resolution process fails, any subsequent attempts will not be allowed unless the arbitrator agrees it is in the parties best interest to continue to arrive at an agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 1522.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:367 (March 2003).

Cynthia Bridges
Secretary

0303#038

RULE

**Department of Revenue
Tax Commission**

Ad Valorem Tax

(LAC 61:V.303, 703, 907, 1503, 2503, 2705, and 2707)

In accordance with provisions of the Administrative Procedure Act (R.S. 49:950, et seq.), and in compliance with statutory law administered by this agency as set forth in R.S. 47:1837, the Tax Commission intends has amended and/or repealed sections of the Louisiana Tax Commission Real/Personal Property Rules and Regulations for use in the 2003 (2004 Orleans Parish) tax year.

This Rule is necessary in order for ad valorem tax assessment tables to be disseminated to property owners and local tax assessors no later than the statutory valuation date of record of January 1, 2003. Cost indices required to finalize these assessment tables were not available to this office until late October, 2002. The effective date of this Rule is January 1, 2003.

Title 61

REVENUE AND TAXATION

Part V. Ad Valorem Taxation

Chapter 3. Real and Personal Property

§303. Real Property

A. - B.2. ...

C. The Louisiana Tax Commission has ordered all property to be reappraised in all parishes for the 2004 tax year. Property is to be valued as of January 1, 2003, in Orleans Parish the same as applies to property in all other parishes.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 7:44 (February 1981), amended by the Department of Revenue and Taxation, Tax Commission, LR 9:69 (February 1983), LR 12:36 (January 1986), LR 13:764 (December 1987), LR 16:1063 (December 1990), LR 17:611 (June 1991), LR 21:186 (February 1995), amended by the Department of Revenue, Tax Commission, LR 25:312 (February 1999), LR 26:506 (March 2000), LR 29:367 (March 2003).

Chapter 7. Watercraft

§703. Tables C Watercraft

A. Floating Equipment C Motor Vessels

Floating Equipment C Motor Vessels				
Cost Index (Average)		Average Economic Life 12 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2002	0.997	1	94	.94
2001	1.003	2	87	.87
2000	1.011	3	80	.81
1999	1.029	4	73	.75
1998	1.033	5	66	.68
1997	1.042	6	58	.60
1996	1.058	7	50	.53
1995	1.074	8	43	.46
1994	1.113	9	36	.40
1993	1.144	10	29	.33
1992	1.167	11	24	.28
1991	1.181	12	22	.26
1990	1.205	13	20	.24

B. Floating Equipment C Barges (Nonmotorized)

Floating Equipment C Barges (Nonmotorized)				
Cost Index (Average)		Average Economic Life 20 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2002	0.997	1	97	.97
2001	1.003	2	93	.93
2000	1.011	3	90	.91
1999	1.029	4	86	.88
1998	1.033	5	82	.85
1997	1.042	6	78	.81
1996	1.058	7	74	.78
1995	1.074	8	70	.75
1994	1.113	9	65	.72
1993	1.144	10	60	.69
1992	1.167	11	55	.64
1991	1.181	12	50	.59
1990	1.205	13	45	.54
1989	1.237	14	40	.49
1988	1.303	15	35	.46
1987	1.359	16	31	.42
1986	1.378	17	27	.37
1985	1.392	18	24	.33
1984	1.412	19	22	.31
1983	1.451	20	21	.30
1982	1.477	21	20	.30

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:924 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:204 (February

1997), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998), LR 25:312 (February 1999), LR 26:506 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003).

Chapter 9. Oil and Gas Properties

§907. Tables C Oil and Gas

A. ...

1. Oil, Gas and Associated Wells; Region C North Louisiana

Table 907.A-1				
Oil, Gas and Associated Wells				
Region 1C North Louisiana				
Producing Depths	CostC New by depth, per foot		15 percent of CostC New by depth, per foot	
	\$Oil	\$Gas	\$Oil	\$Gas
0 - 1,249 ft.	11.39	26.81	1.71	4.02
1,250 - 2,499 ft.	11.32	16.00	1.70	2.40
2,500 - 3,749 ft.	13.38	15.23	2.01	2.28
3,750 - 4,999 ft.	15.27	17.02	2.29	2.55
5,000 - 7,499 ft.	20.42	21.47	3.06	3.22
7,500 - 9,999 ft.	30.67	29.05	4.60	4.36
10,000 - 12,499 ft.	38.41	37.00	5.76	5.55
12,500 - Deeper ft.	N/A	73.50	N/A	11.03

2. Oil, Gas and Associated Wells; Region 2C South Louisiana

Table 907.A-2				
Oil, Gas and Associated Wells				
Region 2C South Louisiana				
Producing Depths	CostC New by depth, per foot		15% of CostC New by depth, per foot	
	\$Oil	\$Gas	\$Oil	\$Gas
0 - 1,249 ft.	81.27	81.14	12.19	12.17
1,250 - 2,499 ft.	78.45	85.94	11.77	12.89
2,500 - 3,749 ft.	63.64	80.01	9.55	12.00
3,750 - 4,999 ft.	46.08	55.56	6.91	8.33
5,000 - 7,499 ft.	55.60	54.73	8.34	8.21
7,500 - 9,999 ft.	62.03	62.08	9.30	9.31
10,000 - 12,499 ft.	63.47	73.83	9.52	11.07
12,500 - 14,999 ft.	77.82	93.73	11.67	14.06
15,000 - 17,499 ft.	110.56	118.93	16.58	17.84
17,500 - 19,999 ft.	93.73	153.50	14.06	23.03
20,000 - Deeper ft.	125.55	213.22	18.83	31.98

3. Oil, Gas and Associated Wells; Region 3C Offshore State Waters

Table 907.A-3				
Oil, Gas and Associated Wells				
Region 3C Offshore State Waters*				
Producing Depths	CostC New by depth, per foot		15% of CostC New by depth, per foot	
	\$Oil	\$Gas	\$Oil	\$Gas
0 - 1,249 ft.	N/A	N/A	N/A	N/A
1,250 - 2,499 ft.	317.22	433.06	47.58	64.96
2,500 - 3,749 ft.	238.49	321.73	35.77	48.26
3,750 - 4,999 ft.	247.08	258.15	37.06	38.72
5,000 - 7,499 ft.	204.54	175.70	30.68	26.36
7,500 - 9,999 ft.	191.42	168.06	28.71	25.21
10,000 - 12,499 ft.	188.72	169.44	28.31	25.42
12,500 - 14,999 ft.	179.89	164.02	26.98	24.60
15,000 - 17,499 ft.	162.60	222.99	24.39	33.45
17,500 - Deeper ft.	462.60	332.74	69.39	49.91

A.4. - B.1. ...

2. Serial Number to Percent Good Conversion Chart

Table 907.B-2 Serial Number to Percent Good Conversion Chart			
Year	Beginning Serial Number	Ending Serial Number	25 Year Life Percent Good
2002	226717	Higher	96
2001	225352	226716	92
2000	223899	225351	88
1999	222882	223898	84
1998	221596	222881	80
1997	220034	221595	76
1996	218653	220033	72
1995	217588	218652	68
1994	216475	217587	64
1993	215326	216474	60
1992	214190	215325	56
1991	212881	214189	52
1990	211174	212880	48
1989	209484	211173	44
1988	207633	209483	40
1987	205211	207632	36
1986	202933	205210	32
1985	Lower	202932	30*
VAR.	900000	Higher	50

* Reflects residual or floor rate.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988),

LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:480 (March 1998), LR 25:313 (February 1999), LR 26:507 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003).

Chapter 15. Aircraft

§1503. Aircraft (Including Helicopters) Table

A. Aircraft

Table 1503 Aircraft (Including Helicopters)				
Cost Index (Average)		Average Economic Life (10 Years)		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2002	0.997	1	92	.92
2001	1.003	2	84	.84
2000	1.011	3	76	.77
1999	1.029	4	67	.69
1998	1.033	5	58	.60
1997	1.042	6	49	.51
1996	1.058	7	39	.41
1995	1.074	8	30	.32
1994	1.113	9	24	.27
1993	1.144	10	21	.24
1992	1.167	11	20	.23

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:943 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:206 (February

1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003).

Chapter 25. General Business Assets

§2503. Tables Ascertaining Economic Lives, Percent Food and Composite Multipliers of Business and Industrial Personal Property

A. ...

B. Cost Indices

Table 2503.B Cost Indices			
Year	Age	National Average 1926 = 100	January 1, 2002 = 100*
2002	1	1100.0	0.997
2001	2	1093.4	1.003
2000	3	1084.3	1.011
1999	4	1065.0	1.029
1998	5	1061.8	1.033
1997	6	1052.7	1.042
1996	7	1036.0	1.058
1995	8	1020.4	1.074
1994	9	985.0	1.113
1993	10	958.0	1.144
1992	11	939.8	1.167
1991	12	928.5	1.181
1990	13	910.2	1.205
1989	14	886.5	1.237
1988	15	841.4	1.303
1987	16	806.9	1.359
1986	17	795.4	1.378
1985	18	787.9	1.392
1984	19	776.4	1.412
1983	20	755.8	1.451
1982	21	742.4	1.477
1981	22	709.2	1.546
1980	23	642.8	1.706
1979	24	584.4	1.876
1978	25	534.7	2.050
1977	26	497.1	2.206

*Reappraisal Date: January 1, 2002 - 1096.4 (Base Year)

C.1. - 4. ...

D. Composite Multipliers

Table 2503.D Composite Multipliers 2003 (2004 Orleans Parish)								
Age	3 Yr	5 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr
1	.70	.85	.90	.92	.94	.95	.97	.98
2	.49	.69	.79	.84	.87	.90	.93	.95
3	.34	.53	.68	.77	.81	.86	.91	.94
4	.21	.35	.56	.69	.75	.81	.88	.93
5		.24	.44	.60	.68	.75	.85	.90
6		.21	.34	.51	.60	.71	.81	.88
7			.28	.41	.53	.66	.78	.86
8			.24	.32	.46	.59	.75	.84
9			.22	.27	.40	.55	.72	.83
10				.24	.33	.49	.69	.81
11				.23	.28	.43	.64	.79
12					.26	.37	.59	.76
13					.24	.31	.54	.72
14						.28	.49	.69
15						.27	.46	.68
16						.27	.42	.65
17							.37	.61
18							.33	.54
19							.31	.48
20							.30	.44
21							.30	.38
22								.36
23								.36
24								.38
25								.41
26								.44

Data sources for tables are:

1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 10:944 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:207 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:317 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003).

Chapter 27. Guidelines for Application, Classification and Assessment of Land Eligible To Be Assessed at Use Value

§2705. Classification

A. - B. ...

Bienville	Plaquemines

Jefferson Davis	Vernon

C. ...

AUTHORITY NOTE: Promulgated in accordance with LSA - Constitution of 1974, Article VII, '18, R.S. 47:2302, R.S. 47:2303 and R.S. 47:2304.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 3:289 (June 1977), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 15:1097 (December 1989), LR 19:212 (February 1993), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:208 (February 1997), amended by the Department of Revenue, Tax Commission, LR 25:318 (February 1999), LR 26:510 (March 2000), LR 27:428 (March 2001), LR 28:521 (March 2002), LR 29:372 (March 2003).

§2707. Map Index Table

Table 2707 Map Index Listing of General Soil Maps & Modern Soil Surveys For The State of Louisiana Published By U. S. Dept. of Agriculture, Natural Resources Conservation Service In Cooperation With Louisiana Agricultural Experiment Station			
Parish	Date (General)	Map No. (General)	Date Published or Status (Modern)

Beauregard	Nov., 1971	4-R-28744-A	September, 2002

East Feliciana	Nov., 1971	4-R-17441-A	November, 2001

West Feliciana	Sept., 1975	4-R-29109-A	November, 2001

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2301 and R.S. 47:2308.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 3:290 (June 1977), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:946 (November

1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:208 (February 1997), amended by the Department of Revenue, Tax Commission, LR 25:319 (February 1999), LR 26:511 (March 2000), LR 27:428 (March 2001), LR 28:521 (March 2002), LR 29:372 (March 2003).

Russell R. Gaspard
Chairman

0303#020

RULE

Department of State
Office of the Secretary of State

Department of State Non-Statutory Fee Schedule
(LAC 4:I.303)

In accordance with R.S. 49:222 and R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of State, Office of the Secretary of State has amended the existing Department of State Fee Schedule, which provides for the schedule of fees to be charged for various filings and services by the Department of State. The schedule of fees is amended to ensure that the fees collected are sufficient to cover the cost of carrying out the duties of office associated with the various filings and services for which such fees are charged.

Title 4

ADMINISTRATION

Part I. General Provisions

Chapter 3. Fees

§ 303. Department of State Non-Statutory Fee Schedule

A. The Department of State has established the following schedule of fees to be charged for various filings and services by the Department of State.

Item	Cost
Miscellaneous Certificates	\$ 20
Replacement Commission Certificates	15
Certified Copies Amended	25
Copies Amended	25
Powers of Attorney	25
Business Opportunity Agents	15
Name Reservations	25
Trade Name Reservations	25
Partnerships	100
Foreign Partnerships	150
Special Handling	30
Vital Records Certified/Uncertified	10
Limited Liability Companies	75
Appointment of Registered Agent, New Officers or Directors	25
Resignation of Agent, Officer or Director	25
Change of Domicile	25
Change of Address	25
Supplemental Initial Report	25
Microfilm per 35mm reel, shipping included	25
Microfilm per 16mm reel, shipping included	20
Document Certification	15
Pension Applications per 10 pages or any part thereof	10
Military Records per 25 pages or any part thereof	10

Legislative Audio Tape, tape provided by Archives	15
Legislative Audio Tape, tape provided by patron	10
5x7 Photo Reproduction	15
8x10 Photo Reproduction	25

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:222.

HISTORICAL NOTE: Promulgated by the Department of State, Office of the Secretary of State, LR 12:689 (October 1986), amended LR 29:372 (March 2003).

W. Fox McKeithen
Secretary of State

0303#013

RULE

**Department of Social Services
Office of Family Support**

Temporary Assistance to Needy Families (TANF)
Initiatives
Women and Children's Residential
Prevention and Treatment Program
(LAC 67:III.5521)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Office of Family Support, has amended §5521, Women and Children's Residential Prevention and Treatment Program.

Pursuant to Act 13 of the 2002 Regular Session of the Louisiana Legislature and in an effort to expand the population serviced by this program, the agency has included needy families who have earned income at or below 200 percent of the federal poverty level as eligible for services.

This change was effected by a Declaration of Emergency signed November 8, 2002. Authorization for emergency action in the expenditure of TANF funds is contained in Act 13 of the 2002 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 15. Temporary Assistance to Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5521. Women and Children's Residential Prevention and Treatment Program

A. - B. ...

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), Supplemental Security Income (SSI), Free or Reduced School Lunch, or effective October 1, 2002, who has earned income at or below 200 percent of the federal poverty level.

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 28:352 (February 2002), amended LR 29:373 (March 2003).

Gwendolyn P. Hamilton
Secretary

0303#082

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Black Bass
Daily Take and Size Limits
(LAC 76:VII.149)

The Wildlife and Fisheries Commission hereby establishes the following Rule on black bass (*Micropterus spp.*) on Poverty Point Reservoir, located north of the town of Delhi in Richland Parish, Louisiana.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fishing

**§149. Black Bass Regulations
Daily Take and Size Limits**

A. - B. 3. ...

4. Poverty Point Reservoir (Richland Parish)

a. Size limit: 14 inch-17 inch slot. A 14-17 inch slot limit means that it is illegal to keep or possess a black bass whose maximum total length is between 14 inches and 17 inches, both measurements inclusive.

b. Daily Take: five fish.

c. Possession Limit:

i. On water: same as daily take.

ii. Off water: twice the daily take.

*Maximum total length: the distance in a straight line from the tip of the snout to the most posterior point of the depressed caudal fin as measured with the mouth closed on a flat surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 (25)(a), R.S. 56:325(C), R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR:14:364 (June 1988), amended LR 17:278 (March 1991), re-promulgated LR 17:488 (May 1991), amended LR 17:1122 (November 1991), LR 20:796 (July 1994), LR 23:1168 (September 1997), LR 24:505 (March 1998), LR 26:97 (January 2000), LR 28:104 (January 2002), LR 29:373 (March 2003).

Terry D. Denmon.
Chairman

0303#090

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Oyster Lease Moratorium
(LAC 76:VII.500 and 505)

The Wildlife and Fisheries Commission does repeal LAC 76:VII.500 relative to lifting the oyster lease moratorium and to amend and re-enact LAC 76:VII.505 relative to a

moratorium on new oyster leases. Authority for adoption of this Rule is included in R.S. 56:6(10), R.S. 56:422, R.S. 56:425, R.S. 56:429, and R.S. 56:432.1.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 5. Oysters

§500. Lifting of Oyster Lease Moratorium

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(10) and R.S. 56:422.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 17:808 (August 1991), repealed LR 29:374 (March 2003).

§505. Oyster Lease Moratorium

A. A moratorium on the issuance of oyster leases for waterbottoms not presently under lease is established. This includes a moratorium on the taking of oyster lease applications for waterbottoms not presently under lease. All pending applications will be held, along with all fees paid, pending a resolution of the moratorium, unless the applicant requests cancellation of the application and refund of fees. In the event of the death of an applicant, the applicant's heirs or legatees should so notify the Department; and any lease ultimately issued shall only issue to persons placed in possession of the application by Judgment of Possession or to a court-appointed administrator or executor on behalf of a deceased applicant's estate.

B. A moratorium is placed on the auction of oyster leases in default in payment of rent per LAC 76:VII.501.G, as authorized by R.S. 56:429.

C. Any leases selected by a leaseholder who has previously selected the relocation option pursuant to R.S. 56:432.1 shall be exempt from this moratorium but only to the extent of such previous selection.

D. At such time as the moratorium is lifted, applications for oyster leases will be accepted in accordance with all applicable statutes, rules and regulations and the procedures set out below.

1. One week prior to the date that the moratorium is lifted, the date, time and place where applications are to be taken will be publicly advertised.

2. On the date for taking applications only one applicant at a time will be allowed in the office and this applicant will be allowed to take only one application. Each applicant will have 15 minutes to designate the area he wishes to apply for. After the applicant pays the application and survey fees, he may return to the end of the line for another application.

3. Applications will be taken 24 hours a day (on a first-come basis) until the department feels the influx of applicants can be handled during regular office hours at the New Orleans Office, at which time anyone will be able to take an application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(10), R.S. 56:422, R.S. 56:425, R.S. 56:429, and R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 10:948 (November 1984), amended LR 29:374 (March 2003).

Terry D. Denmon
Chairman

0303#089