

Notices of Intent

NOTICE OF INTENT

Department of Civil Service Civil Service Commission

Market Grade Adjustment; Rate of Pay upon Promotion; Pay upon Reallocation; Pay upon Job Correction or Grade Assignment; Rate of Pay upon Demotion; Gainsharing and Exceptional Performance

The State Civil Service Commission will hold a public hearing at 9 a.m. on Wednesday, August 6, 2003 in the auditorium of the Claiborne Building, 1201 Third Street, Baton Rouge, LA to consider amendments of Civil Service Rules 6.6, 6.7, 6.8, 6.10, 1.11, 1.27, 6.16.3 and 8.2.1 and the adoption of Rule 6.8.1.

Consideration will be given to the following.

Amend Rule 6.6 Market Grade Adjustment

(a) When the pay range for the grade to which a job is currently assigned is either not sufficient to compete with prevailing market conditions, or is found to exceed prevailing market rates, the director may, in accordance with Rules 6.1 and 3.1(n), authorize the assignment of the job to a grade with a more appropriate pay range. The individual pay rate of employees occupying jobs which are affected shall be set in accordance with Rule 6.8.1.

(b) Repealed, as of December 4, 1989.

Explanation

We are proposing that the rate of pay upon a Market Grade Adjustment be governed by the proposed new Rule 6.8.1. This change would negate the pay change upon an upward adjustment. When the pay grade of a job is moved upward by a Market Grade Adjustment, the employee would have the benefit of a higher range maximum. Also, if recruiting, retention, and market pay problems are severe enough to warrant a Market Grade Adjustment, the agency should use Special Entrance Rates of pay. The implementation of Special Entrance Rates in combination with the higher range maximum from the Market Grade Adjustment will allow agencies to give salary adjustments to employees.

It should also be noted that by no longer giving mandated salary increases for Market Grade Adjustments, Civil Service and the agencies will have more freedom to react to changing market conditions.

Amend Rule 6.7 Rate of Pay upon Promotion

- (a) No change.
- (b) No change.
- (c) No change.

(d) When an employee has been detailed with pay to a higher job and is promoted to that same job or a job at the same pay level or a higher pay level directly from the detail, his pay eligibility on promotion shall not be less than he received on detail.

(e) Subject to the provisions of subsection (f) of this rule, when an employee is promoted from a job assigned to one

pay schedule to a job with a higher range maximum in another pay schedule, his pay shall be adjusted as follows.

1. If the maximum of the job to which he is being promoted is less than 14 percent above his current maximum, his pay shall be increased by 7 percent.

2. If the maximum of the job to which he is being promoted is at least 14 percent but less than 21 percent above his current maximum, his pay shall be increased at least by 7 percent but not to exceed 10.5 percent.

3. If the maximum of the job to which he is being promoted is equal to or greater than 21 percent above his current maximum, his pay shall be increased by at least 7 percent but not to exceed 14 percent.

(f) No change.

Explanation

The current 6.7(d) only allows an employee to retain their detail pay when they are directly promoted from the detail job into the same job title. The change will allow an employee to keep their detail pay if they are directly promoted to a job that is at the same pay level or a higher pay level. We have had a limited number of cases where the implementation of a job study or reorganization has resulted in an employee losing pay upon a promotion due to the current detail rule.

The change to 6.7(e) will change the determination of promotion from the minimum of the job to the maximum of the job. The maximum of the job is a truer reflection of the worth of the job than is the range minimum.

Amend Rule 6.8 Pay upon Reallocation

When the Director changes the allocation of a position from one job to another by reallocation,

(a) If the job to which the position is allocated is in a higher grade in the same schedule or is in a grade with a higher maximum in another schedule, the affected employee's pay shall be set in accordance with Rule 6.7.

(b) Subject to the provisions of subsection (d) of this rule, if the job to which the position is allocated is in a lower grade in the same schedule or is in a grade with a lower maximum in another schedule, the affected employee's pay will not change, but shall be subject to provisions of Rule 6.15.

(c) Subject to the provisions of subsection (d) of this rule, if the job to which the position is allocated is in the same grade in the same schedule or is in a grade with the same maximum in another schedule, the employee's pay shall not change.

(d) If the position is reallocated in such a way that the current base supplement rate of pay authorized for the position is lost or reduced, the affected employee's pay shall be set no higher than his current salary and at the higher of the following:

- 1. the range maximum (this is a red circle rate) of the position from which he is being reallocated; or
- 2. within the range maximum plus the base supplement (this is not a red circle rate) authorized for the position to which he is to be reallocated.

Explanation

This change removes all references to job corrections and grade assignments. Job corrections and grade assignments will now be governed by the new Rule 6.8.1 (see below).

Adopt Rule 6.8.1 Pay upon Job Correction or Grade Assignment

When the director assigns a job to a different grade or changes the allocation of a position from one job to another by job correction,

(a) If the job to which the position is job corrected is in a higher grade in the same pay schedule or is in a grade with a higher range maximum in another pay schedule, or if the job is assigned to a higher grade in the same pay schedule or to a grade with a higher range maximum in another schedule, the affected employee's pay shall not change. An employee shall not be paid below the minimum of the higher range.

(b) Subject to the provisions of subsection (d) of this rule, if the job to which the position is job corrected is in a lower grade in the same pay schedule or is in a grade with a lower range maximum in another pay schedule, or if the job is assigned to a lower grade in the same pay schedule or to a grade with a lower range maximum in another schedule, the affected employee's pay shall not change, but shall be subject to provisions of Rule 6.15.

(c) Subject to the provisions of subsection (d) of this rule, if the job to which the position is job corrected is in the same grade in the same pay schedule or is in a grade with the same range maximum in another pay schedule, or if the job is assigned to the same grade in the same pay schedule or to a grade with the same range maximum in another schedule, the affected employee's pay shall not change

(d) If the position is job corrected or if a job has a pay range change in such a way that the current base supplement rate of pay authorized for the position is lost or reduced, the affected employee's pay shall be set no higher than his current salary and at the higher of the following:

1. the range maximum (this is a red circle rate) of the position from which he is being changed; or
2. within the range maximum plus the base supplement (this is not a red circle rate) authorized for the position to which he is to be changed.

Explanation

This rule change removes the pay change associated with job re-evaluations (grade assignment), market grade adjustments and job corrections when the pay grade is moved up. There are no changes to the rule regarding lateral or downward movements. In most cases job studies are the result of either organizational changes, market changes or are requested based upon the grade movements of related jobs. In those cases, the duties of the employee have not changed.

Amend 6.10 Rate of Pay upon Demotion

Subject to the provisions of Civil Service Rules 6.15 and 17.11(a) and (b)2, when an employee is demoted for any reason under any circumstances, his pay shall be reduced as follows.

(a) If the demotion is to a job within the same schedule or to a job in another schedule with a lower maximum his pay shall be reduced by a minimum of 7 percent and may be set at a lower rate in the range provided that it is no less than the minimum.

(b) Repeal.

(c) Repeal.

(d) Subject to the provisions of Rule 6.29, an appointing authority may grant exceptions to this rule for voluntary demotions. Exceptions shall not be granted by the appointing authority in an arbitrary or fraudulent manner designed to increase an employee's rate of pay. An appointing authority may, as part of a formal written policy, waive a pay increase on promotion for an employee who has been demoted without a decrease in pay within a six-month period.

Explanation

The changes to (a), (b), and (c) of this rule are necessitated by the change to multiple pay schedules. It is no longer necessary to mandate a larger pay cut when moving from one pay schedule to another. The change to (d) allows agencies to not pay for a promotion for an employee who has recently demoted without a pay cut.

Amend Rule 1.11 Demotion

*Demotion*Ca change of a permanent or probationary employee from a position in one job to a position in another job which is assigned to a pay grade with a lower maximum.

Explanation

The change to this definition is necessary in due to the change in Rule 6.10.

Amend Rule 1.27 Promotion

*Promotion*Ca change of a permanent employee from a position in one job to a position in another job which is assigned to a pay grade with a higher maximum.

Explanation

The change to this definition is necessary in due to the change in Rule 6.10.

Amend Rule 6.16.3 Gainsharing and Exceptional Performance

This Rule establishes an incentive program designed to encourage increased efficiency and better performance in governmental operations. Subject to the provisions of Rule 6.29, and after obtaining a reward of monies from the incentive fund as established in the Louisiana Government Performance and Accountability Act, an appointing authority may implement an exceptional performance or gainsharing incentive reward program which provides for supplemental compensation to identify classified employees or classified employee groups responsible for efficiencies or exceptional performance. Where the agency is not covered by the Louisiana Government Performance and Accountability Act, the appointing authority shall obtain certification of efficiencies or exceptional performance as required by the Director of the Department of Civil Service. Employees must have been employed by the agency, program, or activity during the period when the efficiencies or the exceptional performance occurred and at the time the reward is distributed. Monetary rewards shall not be part of the classified employee's base pay, but rather shall be a lump sum reward not to exceed 20 percent of their annual base salary. Such reward shall not be considered in the determination of retirement benefits. Each appointing authority's supplemental compensation plan must be approved by the Civil Service Commission prior to distribution of the monies. The plans shall be posted in a manner that assures their availability to all employees. Such public posting shall identify the reward recipients and the amount received by each recipient.

Explanation

The only change to this rule is the addition of "Exceptional Performance" in the title and the change of "and" to "or" in the fifth line. These changes more clearly denote the fact that the Gainsharing program is different from the Exceptional Performance program.

Amend Rule 8.2.1

From the date of the gubernatorial first primary election through Inauguration Day, specific approval must be obtained from the Director prior to making a permanent appointment to any position at or above one of the following pay ranges: GS-23, AS-620, SS-419, PS-115, WS-218, TS-315, unless the position has already been designated as a Shortage job, under Rule 7.20(d).

Explanation

This Rule restricts permanent appointments in manager-level positions during the gubernatorial election transition period. This Rule is being amended to reflect the adoption of new pay schedules.

Allen H. Reynolds
Director

0306#037

NOTICE OF INTENT

Department of Economic Development Office of the Secretary

Capital Companies Tax Credit Program
(LAC 10:XV.327)

The Department of Economic Development, Office of the Secretary, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., and in accordance with R.S. 51:1929, hereby gives notice of its intent to adopt the following additional Rules for the Louisiana Capital Companies Tax Credit Program, in order to provide direction to certified Louisiana capital companies who are seeking to invest certified capital in "Louisiana-based economic development infrastructure projects," as such term is used in R.S. 51:1923(12)(c) of the Louisiana Capital Companies Tax Credit Program (the "*CAPCO Program*"). The term "Louisiana-based economic development infrastructure projects" is not defined in the CAPCO Program. These proposed Rules are intended to provide a procedure for certified Louisiana capital companies seeking a designation of a "Louisiana-based economic development infrastructure project" for an intended investment in order to qualify for the tax credit under this program; and these proposed Rules further provide criteria that a project must meet in order to qualify for such a designation.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES, AND UCC

Part XV. Other Regulated Entities

Chapter 3. Capital Companies Tax Credit Program

§327. Louisiana-Based Economic Development Infrastructure Projects

A. An applicant seeking this designation for an intended investment shall provide to the secretary the following information along with the request for this designation:

1. a description of the project;
2. a description of all sources and uses of financing for the project;
3. a description of the proposed investment;
4. an analysis of how the investment in the project furthers economic development within Louisiana;
5. a calculation of the percentage of the certified Louisiana capital company's total certified capital and total certified capital under management which will be invested in the project;
6. an analysis of whether the entity in which the certified Louisiana capital company proposes to invest is a qualified Louisiana business;
7. an analysis of whether the proposed investment meets the criteria set forth in §303.A.*Investment*. b);
8. a statement as to whether the business in which the certified Louisiana capital company proposes to invest, intends to acquire any real estate for resale or whether any real estate in which the certified Louisiana capital company proposes to invest is intended to be resold;
9. the charter documents for the entity that owns the Louisiana-based economic development infrastructure project and each intervening entity through which the certified Louisiana capital company owns its interest in the Louisiana-based economic development infrastructure project; and
10. copies of all management, maintenance, operations and other agreements which the certified Louisiana capital company contemplates being executed with respect to the Louisiana-based economic development infrastructure project, or if no such agreements have yet been prepared, a description of all contemplated arrangements.

B. A Louisiana-based economic development infrastructure project shall be designated by the secretary for purposes of qualifying the investment under R.S. 1923(12)(c) if it meets the criteria set forth in each of Paragraphs 1 through 5 of this Subsection B, or if it meets other criteria determined by the secretary from time to time.

1. The information shall demonstrate that 100 percent of the funds invested by the certified Louisiana capital company shall be used directly or indirectly:

a. for the acquisition, construction, modification, refurbishment or remodeling of physical facilities, other immovable property improvements or movable property which becomes affixed to or a component part of immovable property, in each case, located in Louisiana; or

b. as attendant expenses related to the investments, including without limitation, closing expenses, capital expenditure reserves, working capital, and reasonable fees and expenses relating to the management and operation of the facilities.

2. The facilities must accomplish at least two of the following, as determined by the secretary, or shall accomplish such other objectives as the secretary may determine from time to time:

a. provide below-market rental environments for "disadvantaged businesses" as defined in R.S. 51:1923(7);

b. provide attractive rental environment for the attraction of out-of-state companies in the targeted clusters identified in the state's Vision 2020 Plan to locate headquarters or operations in Louisiana;

c. provide below-market rental environments for qualified Louisiana startup businesses as defined in R.S. 51:1923(14);

d. provide attractive rental environments for qualified Louisiana technology-based businesses as defined in R.S. 51:1923(15); or

e. provide below market cost services.

3. The investment by the certified Louisiana capital company in the Louisiana-based economic development infrastructure project shall be made either to acquire an equity interest in an entity that directly or indirectly owns or acquires an interest in a Louisiana-based economic development infrastructure project, to provide debt financing to an entity that owns or acquires an interest in the Louisiana-based economic development infrastructure project, or to provide a combination of these investment mechanisms.

4. The secretary shall review and approve of the percentage of the certified Louisiana capital company's certified capital and total certified capital under management that is invested in the proposed project or project entity, in his or her discretion.

5. The secretary may adopt additional criteria for his or her approval of Louisiana-based economic development infrastructure projects.

C. An investment approved by the secretary which is made by a certified Louisiana capital company in a Louisiana-based economic development infrastructure project or an entity that directly or indirectly owns an interest in a Louisiana-based economic development infrastructure project in accordance with this Rule shall be deemed to "further economic development within Louisiana" for purposes of R.S. 51:1923(12).

D. Following the secretary's designation of an investment by a certified Louisiana capital company as a qualified investment in a Louisiana-based economic development infrastructure project, the secretary shall issue a letter to the certified Louisiana capital company applicant confirming the designation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1929.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 29:

Family Impact Statement

These proposed Rules should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D, or on family formation, stability and autonomy. There should be no known or foreseeable effect on: the stability of the family; the authority and rights of parents regarding the education and supervision of their children; the functioning of the family; on family earnings and family budget; the behavior and responsibility of children; or the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments to: Richard House, Executive Counsel, Legal Division, Louisiana Department of Economic Development, P. O. Box 94185, Baton Rouge, LA 70804-9185; or physically delivered to: Capitol Annex Building, Second Floor, 1051 North 3rd Street, Baton Rouge, LA 70802. All comments

must be submitted (mailed and received) by 5:00 p.m. July 15, 2003.

Don J. Hutchinson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Capital Companies Tax Credit Program

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

There will be no incremental costs or savings due to the implementation of these Rules into this program. Current staff will be sufficient to process and monitor these Rules within this program. There will be no increase in costs or savings. Funding for this program will come from the regular authorized appropriations received by the department and the economic development fund.

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

There is no expected impact on revenue collections of state or local governmental units.

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

There are no anticipated additional costs to directly affected persons or non-governmental groups. The economic benefit of such Rules will inure to Louisiana Capital Companies which invest in Louisiana-based economic development infrastructure projects, which is intended to provide assistance in the formation and expansion of new businesses which create jobs and enhance economic development throughout Louisiana by providing for the availability of venture capital financing for the development and operation of qualified Louisiana businesses.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Investments by Louisiana Capital Companies in such Louisiana-based economic development infrastructure projects will provide assistance in the formation and expansion of new businesses which create jobs and greatly enhance economic development throughout Louisiana by providing for the availability of venture capital financing for the development and operation of qualified Louisiana businesses, all of which will create increased competition and employment prospects for Louisiana residents throughout the state.

Richard House
Executive Counsel
Legal Division
0306#021

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 104C Louisiana K-12
Educational Technology Standards
(LAC 28:LXXV.Chapter 1)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement the adoption of *Bulletin 104C Louisiana K-12*

Educational Technology Standards. Bulletin 104 will be printed in codified format as Part LXXV of the Louisiana Administrative Code. The Louisiana K-12 Educational Technology Standards will be disseminated to local school districts following publication. The document was previously disseminated to districts as Guidelines. The significance of the change to standards is the weight of required implementation. The change from Guidelines to Standards strengthen the implementation of educational technology initiatives throughout all schools and classrooms in the state.

Title 28
EDUCATION

**Part LXXV. Bulletin 104 Louisiana K-12 Educational
Technology Standards**

Chapter 1. Purpose

Subchapter A. Educational Technology

§101. Mission Statement

A. This document provides a framework for the integration of technology across the curriculum.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§103. Philosophy

A. The Louisiana K-12 State Educational Technology Standards are based on the National Educational Technology Standards and the Louisiana State Content Standards. These technology standards support the beliefs set forth by the state educational technology goal: "All educators and learners will have access to technologies that are effective in improving student achievement."

B. The Louisiana K-12 State Educational Technology Standards parallel the foundation skills and core understandings embodied in the Louisiana Content Standards. Additionally, the standards are designed to reflect the conviction that technology is best understood and taught in a realistic and integrated setting in a variety of curriculum areas. The alignment of the technology standards with the foundation skills provides for such integration across all content areas. Consequently, these standards and the associated performance indicators are to be integrated in all aspects of the curriculum and not taught in isolation, utilizing fully the resources of the classroom, the school, and the community. The technology standards promote the development of technology/information literate students, including those with disabilities, to be self-directed learners, who individually and collaboratively use technology/information responsibly to create quality products and to be productive citizens. The focus is on learning with information and technology rather than learning about technology. Integration of these standards will be varied and dynamic, reflecting the diversity of instructional and student needs in our schools and districts.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§105. Definition

A. Technology consists of any electronic tool used for solving problems, communicating clearly, processing information, increasing productivity, accomplishing a task,

making informed decisions, and enhancing the quality of life.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

Subchapter B. Standards

**§107. Technology Communication Tools
(Communication Foundation Skill)**

A. Students use telecommunications to collaborate, publish, and interact with peers, experts and other audiences.

B. Students use a variety of media and formats to communicate and present information and ideas effectively to multiple audiences.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§109. Technology Problem-Solving and Decision-Making Tools (Problem Solving Foundation Skill)

A. Students use appropriate technology resources for solving problems and making informed decisions.

B. Students employ technology for real world problem solving.

C. Students evaluate the technology selected, the process, and the final results through the use of informed decision-making skills.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§111. Technology Productivity Tools (Resource Access and Utilization Foundation Skill)

A. Students use technology tools to enhance learning, increase productivity, and promote creativity.

B. Students use productivity tools to work collaboratively in developing technology-rich, authentic, student-centered products.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§113. Technology Research Tools (Linking and Generating Knowledge Foundation Skill)

A. Students use appropriate technology to locate, evaluate, and collect information from a variety of sources.

B. Students use technology tools to process data and report results.

C. Students evaluate and select new information resources and technological innovations based on the appropriateness to specific tasks.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§115. Social, Ethical, and Human Issues (Citizenship Foundation Skill)

A. Students understand the ethical, cultural, and societal issues related to technology.

B. Students practice responsible use of technology systems, information, and software.

C. Students develop positive attitudes toward technology uses that support lifelong learning, collaboration, personal pursuits, and productivity.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§117. Basic Operations and Concepts

A. Students demonstrate a sound understanding of the nature and operation of technology systems.

B. Students are proficient in the use of technology.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§119. Technology Standards and State Foundation Skills

A. How do the Technology Standards align with the State Foundation Skills?

Foundation Skills	Technology Standards
Communication	Technology Communication Tools
Problem Solving	Technology Problem Solving and Decision-Making Tools
Resource Access and Utilization	Technology Productivity Tools
Linking and Generating Knowledge	Technology Research Tools
Citizenship	Social, Ethical, and Human Issues Basic Operations and Concepts

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

Subchapter C. Performance Indicators

§121. Grades K-4

A. The following performance indicators should be used as standards in integrating technology into the content standards.

1. Identify, explain, and effectively use input, output and storage devices of computers and other technologies (e.g., keyboard, mouse, scanner, adaptive devices, monitor, printer floppy disk, hard drive). (5,6)
2. Use accurate and developmentally appropriate terminology (e.g., cursor, software, hardware, pull down menu, window, disk drive, hard drive, CD-ROM, laser disc) when referring to technology. (6)
3. Discuss common uses of technology in daily life and the advantages and disadvantages those uses provide. (5,6)
4. Discuss basic issues related to responsible use of technology and information; and describe personal consequences of inappropriate use. (5)
5. Use a variety of developmentally appropriate resources and productivity tools (e.g., logical thinking programs, writing and graphic tools, digital cameras, graphing software) for communication, presentation, and illustration of thoughts, ideas, and stories (e.g., signs, posters, banners, charts, journals, newsletters, and multimedia presentation). (1,3,4)
6. Use technology tools (e.g., publishing, multimedia tools, and word processing software) for individual and for simple collaborative writing, communication, and publishing activities for a variety of audiences. (1,3)
7. Gather information and communicate with others using telecommunications (e.g., email, video conference, internet) with support from teachers, family members, or peers. (1,4,5,6)

8. Utilize search strategies employing keywords, phrases, and Boolean operators (and, or, not) to access and retrieve information. (4)

9. Evaluate electronic information for accuracy, relevance, appropriateness, comprehensiveness, and bias. (2,4,5)

10. Use technology resources to assist in problem-solving, self-directed learning, and extended learning activities. (2,4)

- a. Technology Communication Tools
- b. Technology Problem Solving and Decision-Making Tools
- c. Technology Productivity Tools
- d. Technology Research Tools
- e. Social, Ethical, and Human Issues
- f. Basic Operations and Concepts

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§123. Grades 5-8

A. The following performance indicators should be used as standards in integrating technology into the content standards.

1. Identify and define computer and networking terms (e.g. modem, file server, client station, LAN, Internet/Intranet, data storage device). (6)
2. Understand and apply common troubleshooting techniques. (6)
3. Demonstrate the operations of a computer (e.g., touch-keyboarding skills, save, organize and back-up files) and other peripheral devices (scanner, digital and video cameras, VCR, laser disc player) at an intermediate level. (6)
4. Compose and edit a multi-page document with appropriate formatting using word-processing skills (e.g., menu, tool bars, dialog boxes, spell check, thesaurus, page layout, headers and footers, word count, margins, tabs, spacing, columns, page orientation). (1,3,6)
5. Use information, media, and technology in a responsible manner which includes following the school's acceptable use policy, adhering to copyright laws, respecting the rights of others, and employing proper etiquette in all forms of communication. (4,5)
6. Recognize the importance of information technology and its effect on the workplace and society. (5)
7. Use multimedia tools and desktop publishing to develop and present computer-generated projects for directed and independent learning activities. (1,3)
8. Use technology tools (e.g., multimedia authoring, writing tools, digital cameras, drawing tools, web tools) to gather information for problem solving, communication, collaborative writing and publishing to create products for various audiences. (1,3,4)
9. Demonstrate intermediate e-mail skills (e.g., sending attachments, organizing an address book, forwarding messages). (1,4)
10. Understand Internet concepts (e.g., website, hypertext link, bookmarks, URL addresses) and apply intermediate on-line searching techniques (e.g., employ keyword, phrases, and Boolean Operators). (1,4)

11. Use telecommunications and online resources efficiently and effectively to collaborate with peers, experts, and others to investigate curriculum-related problems, issues, and information and to develop solutions or products for various audiences. (1,2,3,4)

12. Communicate information using spreadsheets and databases to visually represent data and integrate into other documents (e.g., entering data, formatting using formulas, analyzing data, and sorting). (1,2,3,4)

13. Determine when technology is useful and select the appropriate tool(s) and technology resources to address a variety of tasks and problems. (2)

14. Research and evaluate the accuracy, relevance, appropriateness, comprehensiveness, and bias of electronic information. (2,4,5)

a. Technology Communication Tools

b. Technology Problem Solving and Decision-Making Tools

c. Technology Productivity Tools

d. Technology Research Tools

e. Social, Ethical, and Human Issues

f. Basic Operations and Concepts

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

§125. Grades 9-12

A. The following performance indicators should be used as standards in integrating technology into the content standards.

1. Apply strategies for identifying and solving routine hardware and software problems that occur during everyday use. (6)

2. Make informed choices among technology systems, resources, and services. (5,6)

3. Demonstrate knowledge and skills of Internet use and other resources consistent with acceptable use policies including the legal consequences of plagiarism and the need for authenticity in student work through an understanding of copyright issues. (5)

4. Demonstrate and advocate legal and ethical behaviors among peers, family, and community regarding the use of technology and information. (5)

5. Explain and use advanced terminology, tools, and concepts associated with software applications, telecommunications, and emerging technologies. (1,3)

6. Use technology tools and resources for managing and communicating personal/professional information (e.g., finances, schedules, addresses, purchases, correspondence). (1,3)

7. Refine knowledge and enhance skills in keyboarding, word processing, desktop publishing, spreadsheets, databases, multimedia, and telecommunications in preparing and presenting classroom projects. (3,6)

8. Collaborate (e.g., desktop conferencing, e-mail, on-line discussions) with peers, experts, and others to compile,

synthesize, produce and disseminate information, models, and other creative works. (1,2,3,5)

9. Evaluate technology-based options for lifelong learning. (4)

10. Use appropriate technology to locate, retrieve, organize, analyze, evaluate, and communicate information for problem solving and decision making. (1,2,4)

11. Evaluate the usage of technology and the processes involved during and upon completion of individual and group projects. (2,5)

a. Technology Communication Tools

b. Technology Problem Solving and Decision-Making Tools

c. Technology Productivity Tools

d. Technology Research Tools

e. Social, Ethical, and Human Issues

f. Basic Operations and Concepts

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:

Interested persons may submit comments until 4:30 p.m., August 9, 2003, to: Nina Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Bulletin 104C Louisiana K-12 Educational Technology Standards

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

The implementation of the revisions of the Louisiana K-12 Educational Technology Standards will cost the State Department of Education approximately \$3810 for preparing and disseminating these revisions.

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

There is no effect on revenue collections of state or local government units.

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

There is no effect on costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0306#072

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). Act 478 of the 1997 Regular Legislative Session called for the development of an accountability system for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The state's accountability system is an evolving system with different components. The proposed changes remove outdated information.

**Title 28
EDUCATION**

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 28:269 (February 2002), LR 28:272 (February 2002), LR 28:991 (May 2002), LR 28:1187 (June 2002), LR 29:

* * *

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

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

For 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.

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:

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

Any references to Supplemental Educational Services in this policy apply to Title I schools only.

Beginning in 2003, for schools that may be subject to choice and/or Supplemental Educational Services provisions, the LDE shall annually release preliminary School Performance Scores and Corrective Action status at least two weeks prior to the first day of the school year following the school year in which the assessment data was collected. Final School Performance Scores will be issued during the fall semester each year.

Formula for Calculating an SPS [K-6]			
All intermediate results and the final result shall be rounded to the nearest tenth.			
The SPS for a K-6 school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example, [(66.0 * 60%) + (75.0 * 30%) + (50.0 * 10%)] = 67.1			
Indicator	Index Value	Weight	Indicator Score
CRT	66.0	60%	39.6
NRT	75.0	30%	22.5
Attendance	50.0	10%	5.0
SPS = 67.1			

Criterion-Referenced Tests (CRT) Index Calculations	
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 times 4 (number of subjects). 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

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.)

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

- Calculate the total number of points by multiplying the number of students at each performance level times by the points for those respective performance levels, for all content areas and summing those products.
- Add to the sum any Incentive Points and divide by the product of the total number of students eligible to be tested times the number of content area tests.
- Zero shall be the lowest CRT Index score reported for accountability calculations.

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

For the NRT Index, composite standard scores shall be used for computing the SPS. Index scores for each student shall be calculated, scores totaled, and then averaged 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 composite standard score, then the index for that student is calculated as follows:

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

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.

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 using the prior two years' average attendance rates as compared to the State's 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 using the prior two years' average dropout rates as compared to the State's 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.

Formula for Calculating an SPS [K-8]			
The SPS for a K-8 school shall be calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example, [(71.2 * 60%) + (76.1 * 30%) + (87.7 * 5%) + (90.4 * 5%)] = 74.4			
Indicator	Index Value	Weight	Indicator Score
CRT	71.2	60%	42.7
NRT	76.1	30%	22.8
Attendance	87.7	5%	4.4
Dropout	90.4	5%	4.5
SPS = 74.4			

School Performance Scores for 9-12

Formula for Calculating an SPS for 9-12 and Combination Schools.			
The SPS for a 9-12 school shall be calculated by multiplying the index values for each indicator by the weight given to the indicator and adding the total scores. The formula is SPS = (.60 * CRT Adjusted Achievement Index) + (.30 * NRT Adjusted Achievement Index) + (.05 * Dropout Index) + (.05 * 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	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			

Criterion-Referenced Tests (CRT) Index Calculations [9-12]	
A high school's CRT Index score equals the sum of the student totals divided by the number of tests those students were eligible to take. 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

Norm-Referenced Tests (NRT) Index Calculations [9-12]		
For the NRT Index, composite standard scores shall be used for computing the SPS. Index scores for each student shall be calculated, scores totaled, and then averaged 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 composite standard score, the index for a grade 9 student is calculated as follows: Index 9th grade = (2.083 * SS) - 447.8

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)

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 the sum 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 + .07, the grade 10 CRT Index shall be multiplied by the grade 9 and grade 10 non-dropout rates + .07, and the grade 11 CRT Index shall be multiplied by the grade 9, grade 10 and grade 11 non-dropout rates + .07. Any Option II student who passes a previously failed portion of the CRT earns 50 Incentive Points for his/her high school. Add any Option II Incentive points to the NRT value after multiplying to adjust for dropouts. 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: NRT Adjusted Achievement Index = Raw Achievement Index * (1-DO Gr 9 + .07)

CRT Adjusted Achievement Index (Gr 10) = Raw Achievement Index * (1-DO Gr 9 + .07) * (1-DO Gr 10 + .07)

CRT Adjusted Achievement Index (Gr 11) = Raw Achievement Index * (1-DO Gr 9 + .07) * (1-DO Gr 10 + .07) * (1-DO Gr 11 + .07)

Example 1 – Grade 9:

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

Example 2 – Grade 10:

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

Attendance Index Calculations for Grades 9-12

An Attendance Index score for each high school shall be calculated using the prior two years' average attendance rates as compared to the State's 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 using the prior two years' average dropout rates as compared to the State's 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.

School Performance Scores for Combination Schools

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

The formula for calculating an SPS for Combination Schools is defined in the High School calculations.

Formula for Calculating a CRT Index for a Combination School

1. Calculate the CRT Index score for the K-8 portion of the school as instructed above in the K-8 directions.
2. Calculate the CRT Adjusted Index score for the 9-12 portion of the school as instructed above in the 9-12 directions.
3. Multiply the K-8 CRT Index by the number of students eligible to take the K-8 CRT times 4 (number of subjects). Multiply the 9-12 CRT Adjusted Index by the number of tests 9-12 students were eligible to take.
4. Sum the two products in step 3.
5. Divide the sum in step 4 by the sum of tests all students (K-12) were eligible to take.

$$\frac{[(K-8 \text{ CRT Index} * \text{number students eligible to test} * 4) + (9-12 \text{ CRT Adjusted Index} * \text{number of tests students were eligible to take})]}{\text{Total of tests K-12 students were eligible to take.}}$$

Formula for Calculating a NRT Index for a Combination School

1. Calculate the NRT Index score for the K-8 portion of the school as instructed above in the K-8 directions.
2. Calculate the NRT Adjusted Index score for the 9-12 portion of the school as instructed above in the 9-12 directions.
3. Multiply the K-8 NRT Index by the number of students eligible to take the K-8 NRT. Multiply the 9-12 NRT Adjusted Index by the number of 9-12 students eligible to take the NRT. Sum the two products. Divide the sum by the number of K-12 students eligible to take the NRT.

$$\frac{[(K-8 \text{ NRT Index} * \text{number students eligible to test}) + (9-12 \text{ NRT Adjusted Index} * \text{number of students eligible to test})]}{\text{Total K-12 students eligible to test.}}$$

Formula for Calculating an Attendance Index for a Combination School

1. Calculate the Attendance Index for the K-8 portion of the school as instructed above in the K-8 directions.
2. Calculate the Attendance Index for the 9-12 portion of the school as instructed above in the 9-12 directions.
3. Multiply the K-8 Attendance Index by the K-8 enrollment total. Multiply the 9-12 Attendance Index by the 9-12 enrollment total. Sum the two products. Divide the sum by the number of K-12 students enrolled in the school.

$$\frac{[(K-8 \text{ Attendance Index} * \text{number of K-8 students}) + (9-12 \text{ Attendance Index} * \text{number of 9-12 students})]}{\text{Total K-12 enrollment.}}$$

Formula for Calculating a Dropout Index for a Combination School

1. Calculate the Dropout Index for the K-8 portion of the school as instructed above in the K-8 directions.
2. Calculate the Dropout Index for the 9-12 portion of the school as instructed above in the 9-12 directions.
3. Multiply the K-8 Dropout Index by the 7-8 enrollment total. Multiply the 9-12 Dropout Index by the 9-12 enrollment total. Sum the two products. Divide the sum by the number of 7-12 students enrolled in the school.

$$\frac{[(K-8 \text{ Dropout Index} * \text{number of 7-8 students}) + (9-12 \text{ Dropout Index} * \text{number of 9-12 students})]}{\text{Total 7-12 enrollment.}}$$

2.006.05 Growth Targets Each school shall receive a Growth Target that represents the amount of progress it must

make every two years to reach the state's 10- and 20-year goals.

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

Growth Targets [K-12]

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

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

where

PropSE = the number of special education students in the school who are eligible to participate in the NRT or CRT, divided by the total number of students in the school who are eligible to participate in the NRT or CRT.

For purposes of this calculation, gifted, talented, and 504 students shall not be counted as special education students, but shall be included in the calculations as regular education students.

PropRE = 1 - PropSE. PropRE is the proportion of students not in special education.

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

SPS = School Performance Score

N = Number of remaining accountability cycles in the 10-Year Goal period

The maximum amount of growth that a school shall be required to attain is 20 points. The minimum amount of growth required shall be 5 points.

During the second ten years, the formula is the following:
[PropRE * (150 - SPS)/N] + [PropSE * ((150 - SPS)/(N + 5))] + [PropLEP * ((150-SPS)/(N+5))], or 5 points, whichever is greater.

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

$$\frac{[[\text{PropRE} * (100 - \text{SPS})/N] + [\text{PropSE} * ((100 - \text{SPS})/(N + 5))] + [\text{PropLEP} * ((100-\text{SPS})/(N+5))]]}{2}, \text{ or 5 points, whichever is greater.}$$

Growth Targets for New or Reconfigured Schools

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

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

Growth Targets for Reconstituted Schools

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

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

Rewards/Recognition

2.006.08 A school shall receive recognition and monetary awards (as appropriated by the Legislature) when

it meets or surpasses its Growth Target and when it shows growth in the performance of its subgroups

School personnel shall decide how any monetary awards shall be spent; however, possible monetary rewards shall not be used for salaries or stipends. Other forms of recognition shall also be provided for a school that meets or exceeds its Growth Target.

Districts and the LDE shall evaluate any instance of Irregularity or Unusual Data (See Standard 2.006.04) in the following respects for determining the allocation of rewards:

- If Irregularities are resolved and the data is corrected before rewards are provided, then the rewards will be based upon the corrected data.
- If the Irregularities are resolved and the data is corrected after rewards have been distributed, then the school shall be required to repay any rewards for which it was ineligible as determined by the audit findings or the SBESE will subtract the reward amount from future funds to be awarded to the district or from some other source.

Pairing/Sharing of Schools with Insufficient Test Data

2.006.15 In order to receive a SPS, a given school must have at least one grade level of CRT testing and at least one grade level of NRT testing. A school that does not meet this

requirement must be either "paired or shared" with another school in the district as described below. For the purpose of the Louisiana Accountability System, such a school shall be defined as a "non-standard school."

A school with a grade-level configuration such that it participates in neither the CRT nor the NRT (e.g., a K, K-1, K-2 school) must be "paired" with another school that has at least one grade level of CRT testing and one grade level of NRT testing. This pairing means that a single SPS shall be calculated for both schools by averaging both schools' attendance and/or dropout data and using the test score data derived from the school that has at least two grade levels of testing.

A school with a grade-level configuration in which students participate in either CRT or NRT testing, but not both (e.g., a K-3, 5-6 school) must "share" with another school that has at least one grade level of the type of testing missing. Both schools shall "share" the missing grade level of test data. This shared test data must come from the grade level closest to the last grade level in the non-standard school. The non-standard school's SPS shall be calculated by using the school's own attendance, dropout, and testing data AND the test scores for just one grade from the other school.

A district must identify the school where each of its non-standard schools shall be either "paired or shared." The "paired or shared" school must be the one that receives by promotion the largest percentage of students from the non-standard school. In other words, the "paired or shared" school must be the school into which the largest percentage of students "feed." If two schools receive an identical percentage of students from a non-standard school, the district shall select the "paired or shared" school.

If a school is not paired/shared at the beginning of a cycle, it shall not be paired/shared at the end of a cycle.

Beginning with Cycle 2, requirements for the number of test units shall be the sum of the test units over a two-year period (80 CRT and 20 NRT) (not the number of test units in one year). Beginning with Cycle 2, a school's sharing/pairing status at the beginning of the cycle shall be its status at the end of the cycle.

Interested persons may submit written comments until 4:30 p.m., August 9, 2003, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 741C Louisiana Handbook for
School AdministratorsC Policy for Louisiana's Public
Education Accountability System**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There are no estimated implementation costs to state governmental units. The proposed changes remove outdated information.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections by state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

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

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification of School PersonnelC Validity, Reinstatement, Renewal, and Extension of Certificates
(LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to *Bulletin 746C Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This policy adds language for the new Level 1, Level 2, and Level 3 certificates; and it provides specificity to the six semester hours of coursework required for reinstatement of lapsed certificates.

**Title 28
EDUCATION**

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

**§903. Teacher Certification Standards and Regulations
A. Bulletin 746**

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:183, 311, 399, 435, 541 (April, July, September, October, December 1975), amended LR 28:763-765 (April 2002), LR 28:765 (April 2002), LR 28:990 (May 2002), LR 29:

**Validity, Reinstatement, Renewal, and
Extension of Certificates**

Type C and Level 1 certificates for beginning teachers in Louisiana shall be valid for three years. Teachers who have had the required academic preparation and the necessary number of years of successful teaching experience in their properly certified field and have successfully completed the Louisiana Teacher Assistance and Assessment program may have Type C certificates converted into Type B or Type A certificates, or may have Level 1 certificates converted into Level 2 or Level 3 certificates, with validation subject to the terms and conditions hereinafter set forth.

Type B and A certificates shall be valid for life; and Level 2 and Level 3 certificates shall be valid for five years and renewable with 150 Continuing Learning Units (CLUs) of professional development. The period of validity is subject to the provision that the holder does not allow any period of five or more consecutive calendar years of disuse to accrue and/or the certificate is not revoked by the State Board of Elementary and Secondary Education acting in accordance with law. Type B, Type A, Level 2, and Level 3 certificates shall lapse for disuse if the holder thereof shall allow a period of five consecutive calendar years to pass in which he or she is not a regularly employed teacher for at least one semester (90 consecutive days).

Reinstatement of a lapsed certificate shall be made only on evidence that the holder has earned six semester hours of resident, extension, or correspondence credit in courses approved by Certification and Higher Education or a Louisiana dean of education for the first period of five consecutive years of disuse.

It is the responsibility of the parish employing authority to notify Certification and Higher Education when the employing authority desires to employ a teacher whose Type C, B, or A certificate or whose Level 1, 2, or 3 certificate has expired.

Upon recommendation of the parish superintendent (or corresponding administrative officer of a private school system) who wishes to employ such a teacher, the holder of a lapsed Type C or Level 1 certificate may have the certificate renewed once for an additional period of three years, subject to the approval of Certification and Higher Education or upon the presentation of six semester hours of credit directly related to the area(s) of certification. Such hours shall be resident, extension, or correspondence credit from a regionally accredited institution approved by Certification and Higher Education or a Louisiana dean of education. However, if the holder of a Type C or Level 1 certificate has not been employed regularly as a teacher for at least one 90-day semester during a period of five years, his certificate can be reinstated for three years only upon the presentation of six semester hours of credit directly related to area(s) of certification. The coursework may be resident,

extension, or correspondence credits earned from a regionally accredited institution approved by Certification and Higher Education or a Louisiana dean of education. The six semester hours of resident, extension, or correspondence credit required to reinstate a certificate must be earned

during the five-year period immediately preceding the reinstatement of the certificate. Type of approved coursework for grade levels of certification and for special education areas is as follows.

Approved Courses to Reinstate Lapsed Certificates (Six semester hours of coursework required)						
Type of Approved Coursework	Early Childhood (PK, K, PK-3)	Elementary Grades (1-4, 1-6, 1-8)	Middle Grades (4-8, 5-8)	Secondary Grades (7-12)	Special Education (1-12)	All-Level (K-12) Areas (Art, Dance, Foreign Language, H&PE, Music)
(Diagnostic & Prescriptive Reading)	X	X	X	X	X	
Reading in the Content Area	X	X	X	X	X	
Other Content in Reading	X	X	X	X	X	X
Early Numeracy Concepts of Mathematics	X	X	X		X	
Other Content in Mathematics	X	X	X		X	
Content in English/ Language Arts	X	X	X		X	
Content in Science	X	X	X		X	
Content in Social Studies	X	X	X		X	
Content Specific to Subject Area of Certification			X	X	X	X
Classroom and/ or Behavior Management	X	X	X	X	X	X
Technology in the Classroom	X	X	X	X	X	X
Teaching in an Inclusive Setting	X	X	X	X	X	X
Vocational and Transition Services for Students					X	

Notes:

1. Teachers with multiple certification areas may complete coursework specific to any of their certification areas.
2. Coursework must be reflected on a transcript from a regionally accredited institution.
3. Coursework must be gained within the five-year period immediately preceding reinstatement of the certificate.
4. Coursework cannot be a repeat of prior coursework shown on a transcript, unless the student failed or earned a "D" in the course.

* * *

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

Please respond to the following.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments until 4:30 p.m., August 9, 2003, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 746C Louisiana Standards for State Certification of School Personnel Validity, Reinstatement, Renewal, and Extension of Certificates

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

This policy adds language for the new Level 1, Level 2, and Level 3 certificates; and it provides specificity to the six semester hours of coursework required for reinstatement of lapsed certificates. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0306#071

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1196C Louisiana Food and Nutrition Programs Policies of Operation (LAC 28:XLIX)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 1196C Louisiana Food and Nutrition Programs, Policies of Operation*. Bulletin 1196 is the policy manual designed to provide useful guidance and information for the purpose of improving regulatory compliance and to enhance the understanding and operation of the Child Nutrition Programs in Louisiana. This is an update of Federal and State policies.

**Title 28
EDUCATION**

Part XLIX. Bulletin 1196C Louisiana Food and Nutrition Programs, Policies of Operation

Chapter 1. Administration

§107. Local Level

A. - A.1. ...

B. School Food Service Director and/or Supervisor

1. This person is responsible to the superintendent or the sponsor's representative. As a member of the administrative staff, the director and/or supervisor has overall responsibility for the CNP. This individual shall act as advisor for the other staff members, school principals and faculties, food service managers, students and parents in developing, administering and supervising the programs. It is his/her responsibility to exercise guidance and leadership while maintaining necessary controls over accounting and reporting, personnel, facilities and equipment. Each school/site shall be monitored by a director/supervisor in accordance with Federal and State regulations. (Refer to Forms and Guidance materials.) The significance of improved food habits and educational experiences makes it imperative that a CNP be based upon professional concepts. Each school system shall employ a certified supervisor or director. (Refer to §1103)

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2100 (December 2001), amended LR 29:

§111. Permanent Agreement between Sponsor and Louisiana Department of Education

A. ...

B. Reimbursement payments may be made only to schools operating under an agreement between the sponsor and LDOE. The Agreement shall be signed by the Sponsor's designated authorized representative. The Agreement will be considered permanent unless the State Agency is notified of a change in the School Food Authority (SFA) authorized representative. The Agreement may be terminated by either party or may be canceled at any time by the State Agency upon evidence that terms of the agreement have not been fully met.

C.1. - C.2.a. ...

3. Competitive Foods/Extra Sales

a. Each school shall abide by the State policy regarding the operation of competitive food services. The competitive foods policy and penalties for policy violations are discussed in §741. Selling of extra items shall be in compliance with State policy. (Refer to §737).

4. - 7.a. ...

8. Meal Charges

a. Meal charges including student, adult, and at-cost shall be posted in a prominent location in each school food service dining room. All persons consuming meals who are not eligible for free meals shall pay directly to the sponsor the cost posted. No student shall be requested to pay more than the actual cost of the lunch, breakfast, and/or snack, less the amount of reimbursement paid to the sponsor from Federal funds. The minimum charge to eligible adults shall comply with Federal and State regulations. (Refer to §729.)

9. - 24.a. ...

25. Contract Meals

a. The Sponsor agrees to submit annually, with the free and reduced documents, a copy of the contract when contract meals are provided. (Refer to §729)

26. - 26.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE Promulgated by the Board of Elementary and Secondary Education in LR 27:2102 (December 2001), amended LR 29:

Chapter 3. Financial Management and Accounting

§313. Special Functions/Catering

A. - A.2.b. ...

c. Separate accounting records must be maintained for catered events. These records shall document all purchases and expenditures. All accounting practices must follow guidelines outlined in *Bulletin 1929C Louisiana Accounting and Uniform Governmental Handbook*. (For more information and requirements, refer to Chapter 7:§731 and §733.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2106 (December 2001), amended LR 29:

§317. Allowable/Unallowable Program Expenses

A. - B.2.a. ...

b. If food is stolen, a police report must be maintained on file for audit purposes. Expenses for food stolen are considered allowable costs only when a police report has been made.

3. - 3.c. ...

d. Initial equipment is the equipment that a Sponsor is required to have to begin a school food service program. The replacement of worn-out initial equipment or the purchase of additional equipment is an allowable expense. (Refer to Chapter 13 for guidance on required initial equipment.)

3.e. - 28.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2107 (December 2001), amended LR 29:

§323. Property Management Requirements

A. - D.1.a.ii. ...

- iii. green beans, frozen, cut, 2# box; and
- iv. green beans, frozen, cut, 20# box.

b. - e. ...

2. To maintain a computerized noncosted perpetual inventory, adhere to the procedures listed below.

a. Complete a computer inventory record for each form and pack of each food item in inventory.

b. As items are received, enter the date and number of single units received into the computer record.

c. As items are issued or withdrawn from inventory, enter the date and number of single items issued or withdrawn into the computer record.

d. At the end of the month, compare the perpetual inventory balance of each food item to the counts obtained from the physical inventory. (Refer to "Noncosted Physical Inventory" in this Section for procedures to reconcile inventories.)

E. - E.2.e. ...

3. To maintain a computerized costed perpetual inventory, adhere to the procedures listed below.

a. Complete a computer inventory record for each form and pack of each food item in inventory.

b. As items are received, enter the date and number of single units received and price per unit into the computer record.

c. As items are issued or withdrawn from inventory, enter the date and number of single items issued or withdrawn into the computer record.

d. At the end of the month, compare the perpetual inventory balance of each food item to the counts obtained from the physical inventory. (Refer to "Noncosted Physical Inventory" in this Section for procedures to reconcile inventories.)

F. Cost of Food Used

1. The cost of food used each month is calculated from the value of costed inventories for all schools. The SFA has the option of costing either the physical or the perpetual inventories in order to determine the dollar value of the ending inventories.

2. At the end of the month, the cost of food used at each school for the month is calculated from the value of the beginning inventory plus the value of foods received, plus/minus any inventory adjustments and/or transfers, minus the ending inventory. The cost of food used is then adjusted to reflect the value of the inventory error from the previous month, if applicable. The State Agency provides a copy of The Cost of Food Used Worksheet. At the end of

each fiscal year, the cost of food used for all schools is consolidated and reported on the District Income and Expense Report.

3. If the Cost of Food Used Worksheet is computer generated, it should capture all of the information that is on the Cost of Food Used Worksheet provided by the State agency.

G. Property Management of Equipment

1. Adequate maintenance procedures shall be implemented to keep equipment in good condition.

2. Property records shall be maintained accurately. Records for each item of equipment with a unit acquisition cost of \$1,000 or more, with a useful life of one year or more, and purchased in whole or in part with school food service funds shall include the items listed below:

a. a description of the equipment including manufacturer's serial number;

b. an identification number, such as a school food service tag number or the manufacturer's serial number;

c. the acquisition date and unit acquisition cost;

d. the source of funding;

e. the location, use, and condition of the equipment, and the date the information was reported; and

f. all pertinent information on the ultimate transfer, replacement or disposal, including disposal date and sale price.

3. Every year a physical inventory of school food service equipment with a unit acquisition cost of \$1,000 or more with a useful life of one year or more shall be conducted and the results reconciled with the property records to verify the existence, utilization, and continued need. Any discrepancies between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the differences.

4. Adequate safeguards to prevent loss, damage, or theft of equipment shall be used. Any loss, damage, or theft of equipment shall be investigated and fully documented. The State Agency may require a report of the circumstances.

H. Disposition of Equipment

1. The SFA may trade in existing equipment when acquiring replacement equipment.

2. Equipment that is antiquated or not useable shall be disposed of in the following manner. (This procedure may also be used when a SFA ceases to participate in the NSLP or SBP.)

a. The SFA shall actively seek to recover the highest possible return on equipment that is in good operating condition. Selling procedures shall be established to provide for adequate competition and for the highest possible return. To ensure maximum competition, the SFA shall publicly advertise and sell them to the highest bidder. All income shall be deposited in the school food service account.

b. If the SFA is unable to sell used equipment, efforts should be made to transfer the equipment to:

i. projects or programs supported by other Federal grants or assistance agreements; or

ii. other programs that provide meals to children.

c. When unable to sell or transfer inoperable or used equipment, the SFA should attempt to sell the equipment to buyers of scrap materials following procedures

that will provide maximum competition and result in the highest possible return to the school food service program.

d. If efforts to sell or transfer used equipment fail, the SFA may use school food service funds to have the equipment removed from school food service facilities and transported to the nearest legal disposal site.

3. For the disposal of equipment during bankruptcy proceedings, the SFA shall contact the Division of Nutrition Assistance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2111 (December 2001), amended LR 29:

§335. Computing Average Meal Cost

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

d. If the school system sold extra food items, calculate the meal equivalents allowed for extra sales by dividing the total income from extra sales for the year by the meal equivalent factor. (Refer to §339, Meal Equivalent Factor.)

B.1.e. - C.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2114 (December 2001), amended LR 29:

§337. Establishing Meal/Snack Charges and Extra Sales Prices

A. - A.1.h. ...

i. Under-collections for the sale of meals and snacks will necessitate an audit exception; furthermore, any under-collection must be recovered from other sources and deposited in the school food service account. Although non sufficient funds (NSF) checks given to cover the cost of student meals are considered a part of the total cost of producing meals, each SFA must establish a policy regarding the handling of NSF checks. The system should limit the number of NSF checks a household may issue before requiring payment by cash or money order. When the bank returns an NSF check, the household should be required to pay, in cash, the amount of the check and the bank handling charge. When a tuition fee in nonpublic schools includes the costs of school lunch, breakfast, snack or milk, these funds shall be collected and deposited to the school food service account as received.

i - i.iv. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2114 (December 2001), amended LR 29:

§339. Meal Equivalent Factor

A. - B. ...

C. The meal equivalent factor is established annually and is reported at the end of each fiscal year on the District Income and Expense Report. The meal equivalent factor will be used to convert the revenue received from extra items sold into meal equivalents. To calculate meal equivalents for the year, divide the total income from extra sales for the year by the meal equivalent factor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2116 (December 2001), amended LR 29:

§341. Claim for Reimbursement

A. ...

B. Reimbursement Procedures

1. Federal Reimbursement for meals served to eligible students shall be paid at the current assigned rates and shall be paid only for lunches, breakfasts, and snacks meeting requirements. Reimbursement shall be made for only one lunch, breakfast, and snack served per child per day and cannot be made for any meals served to adults.

B.2. - I.5.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2116 (December 2001), amended LR 29:

§349. Recordkeeping for RCCIs and Boarding Schools

A. - B.10.a. ...

11. Internal Control

a. Effective control over and accountability for all program funds, and for real and personal property assets shall be maintained. RCCIs and boarding schools shall adequately safeguard all such assets and shall ensure that they are used solely for authorized program purposes. (Refer to §331 for more information.)

12. - 12.a. ...

b. If a participating RCCI or boarding school has Federal expenditures of less than \$300,000 in a fiscal year, it shall annually report this information to the Louisiana Department of Education, to ensure compliance with Federal audit requirements.

c. Circular A-133 Subpart A §105 defines recipient or subrecipient. The main criteria for determining if an RCCI or boarding school is a recipient or a subrecipient of Federal funds is compliance with Federal program requirements as a criteria of receiving and expending the Federal funds.

13. - 14.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2120 (December 2001), amended LR 28:1737 (August 2002), LR 29:

Chapter 5. Free and Reduced Price Meals

§501. Purpose

A. School Food Authorities (SFA) participating in the National School Lunch and School Breakfast programs and utilizing commodities are required to serve free and reduced price meals to students determined eligible by the current Income Eligibility Guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2121 (December 2001), amended LR 29:

§503. Policy Statement

A. - A.1.a. ...

b. Income Eligibility Guidelines for the current school year and other documents or provisions that contain the eligibility criteria for free and reduced price benefits;

c. the free/reduced price meal application form with instructions (Single or Multi-child application);

d. the Letter to Households regarding application for benefits;

e. - f. ...

g. the Collection Procedure and Accountability Statement;

h. ...

i. the Notice of Selection for Verification and other forms of supporting documentation to assist in verification which include the following:

i. - v. ...

vi. Repealed.

1.j. - 2.k.i. ...

ii. If no other income is listed, a multi-child application that lists a valid food stamp/FITAP case number should be approved free for all students listed on the application. If a higher income is listed that would change the eligibility status of the other children, then the SFA must investigate before making an eligibility determination for those children. Parent(s) or guardian(s) will be promptly notified of the acceptance or denial of their application(s).

A.2.k.iii. - B.2.g. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2121 (December 2001), amended LR 29:

§505. Application Process

A. - B.3.a. ...

C. Application Approval Deadline

1. The application process must be completed no later than 30 operating days from the first day of school. This process includes the distribution of applications and letters to the parent, the return of the application, eligibility determination, and notification to the parent. Within this timeframe, applications should be reviewed and parents notified of the eligibility determination as soon as possible, but no later than 10 operating days after receipt of the application.

D. - D.3.f.i. ...

ii. SFAs should review eligibility determinations made under these crisis procedures every 30 days to evaluate the household's circumstances.

D.3.g. - Q.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2124 (December 2001), amended LR 29:

§513. Verification Process for School Meals

A. - D.1. ...

a. Focused Sampling. The focused sampling method requires the verification of the lesser of 1 percent or 1,000 of the total approved applications (both income and categorical), selected from the approved applications with income information, plus the lesser of 0.005 percent or 500 of approved categorically eligible applications with food stamp/FITAP case numbers reported.

D.1.b. - F.2.b. ...

3. Income Eligible Sample

a. SFAs should use the following procedures to determine sample sizes for income eligible applicants.

i. For applications that provide income information, the sample size is 1 percent of total approved

applications on file or 1,000 applications, whichever is less: e.g., total applications x 0.01.

ii. From the group that reported income information, SFAs should select those applications with monthly incomes within \$100, or annual income within \$1,200, of the income eligibility limits. Zero income applications should be included.

(a). If there are more applications with monthly income reported within \$100 (\$1,200 yearly) of the eligibility levels than needed to meet the minimum sample size, SFAs should select the income application sample using any method that is equitable and that ensures that the same households will not be selected year after year.

(b). If there are not enough applications with monthly income reported within \$100/\$1,200 (yearly) of the eligibility levels to meet the required minimum sample size, SFAs should select from those applications with monthly incomes closest to the eligibility levels.

(c). If there are not enough applications containing income information to meet the required minimum sample size, SFAs should verify all the applications approved on the basis of income information

(d). Zero income applications may be verified for focused sampling in addition to the required number to be verified.

4. Categorically Eligible Sample

a. SFAs should use the following procedures to determine sample sizes for categorically eligible applicants.

i. They should determine the number required to fill the sample size by multiplying the total number of the categorically eligible applications by 0.005. The sample size is the lesser of 500 or 0.005 percent of all applications approved on the basis of food stamp or FITAP case numbers.

ii. From the categorically eligible group, SFAs should select the sample using the method that is equitable and should ensure that the same household is not selected each year.

G. Random Sample Selection Process

1. The random sample size is 3 percent of all approved applications on file on October 31 or 3,000 applications, whichever is less. To calculate the minimum required sample size, multiply the total number of approved applications, including both income and categorical applications, by 0.03. At least one application must be verified.

2. SFAs should randomly select the required number of applications. Using the random sample method, SFAs should ensure that each application must have an equal chance of being selected, including all categorical and income applications.

H. Household Notification

1. When a household is selected for verification and is required to submit documents or other forms of evidence to verify eligibility, the household must be sent a notice/letter informing it of its selection and the types of information acceptable. The letter/notice to the household should include:

a. the notice of selection for verification;

b. notification of the types of acceptable information that can be provided to confirm income include such documents as pay stubs, award letters from welfare

Food Stamp and FITAP departments and social security offices, and support payment decrees from courts;

c. a request for proof that the child is a member of a currently certified food stamp household or FITAP assistance unit may be provided instead of income information;

d. a request for social security numbers must be provided for all adult household members of families whose eligibility is based on the submission of income information;

e. notification that information must be provided, and failure to do so will result in termination of benefits;

f. the name and telephone number of a school official who can answer questions and provide assistance; and

g. notification that the household is required to submit the requested information by a specified date, as determined by the SFA.

2. When the SFA uses agency records to verify eligibility, the letter/notice of selection is not required, since the household will not have to provide documents and household cooperation will not be necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2130 (December 2001), amended LR 29:

§517. Confirmation of Eligibility Based on Income Eligibility

A. - A.1. ...

2. The household must submit the social security numbers of all adult household members and written evidence of current income. (Refer to §523, Appendix B.) Review the income document(s) for the name, date and amounts stated to determine whether the information provided is sufficient to determine total current income.

A.3. - C.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2132 (December 2001), amended LR 29:

§521. Completion of Verification

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

d. Termination of Benefits. Households that do not cooperate with verification efforts or whose current income does not support eligibility for either free or reduced price meals must be changed as outlined in §521.C, Notification of Adverse Action, below.

B.2. - G.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2132 (December 2001), amended LR 29:

Chapter 7. Meal Planning and Service

§701. General

A. ...

B. SFAs shall ensure that schools provide to children meals that meet the USDA School Meals Initiative for Healthy Children's nutrition goals. The nutritional goal of school lunches, when averaged over one week, is to provide one-third of the RDA for protein, calcium, iron, vitamin A, and vitamin C in the applicable age or grade groups as well

as the energy allowances based on the appropriate age or grade groups and meal patterns listed in Appendices A, B and C of this Chapter. Breakfast should provide one-fourth of students' RDA for protein, calcium, iron, vitamin A, and vitamin C in the applicable age or grade groups as the energy allowances based on the appropriate age or grade groups and meal patterns listed in Appendices A, B, and C of this chapter. Lastly, school lunches shall follow the recommendations of the 1990 Dietary Guidelines for Americans with emphasis on limiting total fat to 30 percent based on the actual number of calories offered, limiting saturated fat to 10 percent based on the actual number of calories offered, reducing the levels of sodium and cholesterol and increasing the level of dietary fiber.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2135 (December 2001), amended LR 29:

§703. Nutrient Standard

A. - B.8. ...

C. Required and Optional Nutrient Standards are included in §755, Appendices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2136 (December 2001), amended LR 29:

§709. Required Documents for Meal Planning Options

A. - A.2.b.xiv. ...

c. Additional nutrients or components may be given and can be included in the nutrient analysis. A sample is in the Supplement.

2.d. - 3.b.iv. ...

c. The CN label should not be confused with Nutrition Facts labels, nutrient analyses, or product formulation statements. A sample of a CN label can be found in §755.E.

3.d. - 4.b. ...

c. A product formulation statement may be used in lieu of a CN label but, unlike the CN label, it does not carry a USDA warranty against losing reimbursement should there be an error. Therefore, SFAs must carefully review the statement to determine the accuracy of the information given prior to purchasing the product. Should a Federal or State review find that the product did not meet meal requirements, an audit exception may be taken. (Refer to the guidance for Reviewing Product Formulation Statement in §755.F., and the sample form in §755.G.)

5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2136 (December 2001), amended LR 29:

§711. Menu Planning Options

A. - C. ...

D. Repealed.

E. - E.1.e. ...

i. To meet the requirements of the National School Lunch/School Breakfast Programs, school meals must contain a specified quantity of each of the food components as described below. The quantities or serving

sizes for these components vary according to the age/grade group of the students being served. (Refer to the Traditional School Lunch/Breakfast Pattern charts, §755. H. and I. Note that the charts specify required minimum quantities for different age/grade groups.) Schools are encouraged, but not required, to vary portion sizes by age/grade groups; however, if a school chooses not to vary portion sizes, each group must receive at least the minimum quantities required for that group. In other words, for a given group of students, a school may serve more than the minimum quantity, but not less. In addition to the required food components, larger servings and other foods may need to be served to increase the nutritional quality and acceptability of the meal.

(a). - (a).(i). ...

(ii). The quantity of meat or meat alternate shall be the quantity of the edible portion as served. To be counted as meeting this requirement, the meat or meat alternate shall be served in a main dish or in a main dish and only one other menu item: that is, two menu items are the maximum number that may be used to meet the meat/meat alternate requirement. When two menu items are used, the combination must total the minimum quantity required and the items should be merchandised together and served as a single item: for example, a soup and sandwich combo may be offered as a menu combination. (Refer to the Traditional School Lunch/Breakfast Pattern charts, §755.H. and I, for quantity requirements by age/grade groups.)

(a).(iii). - (b).(iii). ...

(iv). Generally, most vegetables and fruits that are to be used are listed in the USDA Food Buying Guide. In some situations, the main dish may have a CN label that documents the Fruit/Vegetable contribution. In situations when neither is the case, a certified product formation statement on the product from the manufacturer yield information on the product must be maintained on file in the SFA to indicate the contribution toward the meal requirements.

(c). - (c).(iii). ...

(iv). Snack type items such as hard pretzels and chips made from enriched or whole-grain meal or flour as well as bran and/or germ may be credited. (Refer to the Grains/Breads for Food Based Menu Planning chart in §755.J. for specific food item and serving size requirements.)

(v). Enriched macaroni products with fortified protein may be used to meet the grains/breads requirement or to meet a part of the meat/meat alternate requirement but not both in the same meal. (Refer to §711.E.1.e.(i).(a).(viii).[1], Meat/Meat Alternate, Enriched Macaroni With Fortified Protein.)

(vi). The criteria listed below are used as the bases for crediting items to meet the grains/breads requirement. (For specific food item and serving size requirements, refer to §755.J, Grains/Breads for Food Based Menu Planning chart.)

[1]. - [2]. ...

[3]. The item must be provided in quantities specified in the regulations and in minimum serving sizes as specified in the Grains/Breads for Food Based Menu Planning chart in §755.J.

(d). Milk

(i). Schools are required to offer fluid milk at breakfast and lunch. All milk served shall be pasteurized fluid types of milk that meet State and local standards. Whole and unflavored lowfat milk should be offered. Lowfat milk is defined by the Food and Drug Administration (FDA) as milk that contains no more than 3 grams of fat per 8 fluid ounce serving.

e.i.(d).(ii). - f.ii. ...

(a). Lunch

(i). Students must be offered all five required food items at lunch. The serving size of each of the five food items must equal the minimum quantities as specified in the Traditional School Lunch Pattern chart in §755.H. Two separate vegetable/fruit food items must be offered. The combined serving size of these items must total the required minimum quantity by age/grade group for the vegetable/fruit component.

(ii). - (vi). ...

(b). Breakfast

(i). Students must be offered all four-food items as listed in the Traditional School Breakfast Pattern chart in §755.I. SFAs are allowed, but not required, to implement Offer versus Serve at breakfast. Under this provision, students may decline one food item. The decision as to which food item to decline rests solely with the student. In schools not implementing Offer versus Serve, a student must take full portions of all food items offered.

1.f.ii.(b).(ii). - 2.d. ...

e. Menu Components

i. To meet the requirements of the National School Lunch/School Breakfast Programs, school meals must contain a specified quantity of each of the food components as described below. The quantities or serving sizes for these components vary according to the age/grade group of the students being served. (Refer to the Enhanced School Lunch/Breakfast Pattern charts found in §755.K and . Note that the charts specify required minimum quantities for different age/grade groups.) Schools are encouraged, but not required, to vary portion sizes by grade groups; however, if a school chooses not to vary portion sizes, each group must receive at least the minimum quantities required for that group. In other words, for a given group of students, the school may serve more than the minimum quantity, but not less. In addition to the required food components, larger servings and other foods may need to be served to increase the nutritional quality and acceptability of the meal.

(a). - (a).(i). ...

(ii). The quantity of meat or meat alternate shall be the quantity of the edible portion as served. To be counted as meeting this requirement, the meat or meat alternate shall be served either in a main dish or in a main dish and only one other menu item: that is, two menu items are the maximum number that may be used to meet the meat/meat alternate requirement. When two menu items are used, the combination must total the minimum quantity required, and the items should be merchandised together and served as a single item. For example, a soup and sandwich combo may be offered as a menu combination. (For quantity requirements by age/grade groups, refer to §755.K and L: Enhanced School Lunch/Breakfast Pattern Charts.)

(a).(iii). - (c).(iii). ...

(iv). Up to one grains/bread serving per day may be a dessert for grades K-12; dessert type items may not be counted as a grains/breads serving for preschool students. Snack type items such as hard pretzels and chips made from enriched or whole-grain meal or flour as well as bran and/or germ may be credited. (Refer to the Grains/Breads for Food Based Menu Planning chart in §755.J for specific food item and serving size requirements.)

(v). Enriched macaroni products with fortified protein may be used to meet the grains/breads requirement or to meet a part of the meat/meat alternate requirement but not both in the same meal. (Refer to §711.E.1.e.i(a)(viii)[1]:Meat/Meat Alternate, Enriched Macaroni with Fortified Protein.)

e.i.(c).(vi). - f.ii.(b).(vi). ...

g. Nutrient Standards and Analysis Requirements

i. SFAs shall ensure that participating schools provide nutritious and well-balanced meals that meet the Nutrient Standards as required by program regulations. The State Agency shall conduct a nutrient analysis of menus for one school week to determine whether the Nutrient Standards have been met. (Refer to § 755.B., Required Nutrient Standards for Enhanced Food Based Menu Planning.) If the SFA chooses to conduct its own analysis, the State Agency will review the SFA's nutrient analysis. SFAs must follow Nutrient Standard Menu Planning protocols to use the SFA's analysis. (Refer to §705, Computerized Nutrient Analysis for Additional Information.)

2.h. - 3.f.i.(c).(iii). ...

(d). Other Menu Items

(i). The category, other menu items, refers to any food other than the entree, fluid milk and foods of minimal nutritional value. (A sample is in the Supplement.) The menu planner may consider the "other menu items" category to be side dishes. Condiments such as relishes, catsup, mustard, mayonnaise, jelly, syrup, gravy, etc. may not be counted as other menu items.

3.g. - 4. ...

a. Assisted Nutrient Standard Menu Planning (ANSMP) is designed for SFAs that lack the technical resources to implement Nutrient Standard Menu Planning but would like to take advantage of its features. This option allows SFAs to use the expertise of outside entities, such as other SFAs, the State Agency, or a consultant, to develop a cycle menu, recipes, procurement specifications and production schedules that will allow school meals to meet the Nutrient Standards. These menus, recipes, etc. must be followed precisely. The SFA must have State Agency approval of initial menu cycle along with nutrient analysis, recipes, product specifications, and any other documentation requested by the State Agency. (For specific requirements, refer to §711.E.3, Nutrient Standard Menu Planning.)

5. - 5.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2137 (December 2001), amended LR 29:

§713. Infant Meal Patterns

A. Infants under one year of age shall be served an infant breakfast and/or lunch as specified in §755.M. Foods within the infant meal patterns shall be of the texture and

consistency appropriate for the particular age group being served and shall be served to the infant during a span of time consistent with the infant's eating habits.

B. - B.3.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2148 (December 2001), amended LR 29:

§727. Meal Substitutions for Medical or Dietary

Reasons

A. ...

B. Any changes to the regular school meal for medical or special dietary reasons must be appropriately documented. Changes to existing diet orders must also be documented. This documentation is required to justify that the modified meal is reimbursable and to ensure that any meal modifications meet nutrition standards that are medically appropriate for the specific child. When special meals or modifications are requested, a form that includes required information should be given to the parent or guardian so that the student's physician may correctly assess the condition and identify meal changes. (A sample is in the Supplement.) Although the form itself is not required, either a physician's statement or a diet prescription that includes the same information is required and must be kept on file in the school.

C. - C.1.d.iv. ...

e. Generally, children with food allergies or intolerance do not have a disability as defined by Federal Regulations. However, it is possible that such food allergies or intolerance will limit a major life activity. When faced with a request for special meals for such children, the food service personnel must abide by the determination of the physician.

1.f. - 3.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2149 (December 2001), amended LR 29:

§729. Nonstudent Meals

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

3. Contract Meals

a. SFAs may contract meal service to nonschool programs such as Head Start, day care programs, and elderly feeding programs. There must be an annual contract between the two agencies stipulating the necessary terms. Contracts should protect both parties and be reviewed by an attorney. (A sample is in the Supplement.) Copies of new and renewed contracts must be submitted to the State Agency. Contracts will become part of the SFAs Permanent Agreement with the State Agency. (Refer to §337.A.1.f: Costing of Contract Meals, for additional information.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2150 (December 2001), amended LR 29:

§735. Second Servings

A. ...

B. Students who receive a complete meal in the form of second servings are required to pay the at cost price of the

meal. A complete meal is defined as the number of meal components that constitutes a reimbursable meal. Second servings cannot be claimed for reimbursement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2151 (December 2001), amended LR 29:

§737. Extra Sales

A. ...

B. Schools must maintain proper accountability for extra sale items and must recover the full cost of producing the extra items plus a profit. At a minimum, these costs shall include food, labor (wages plus benefits), paper and nonfood supplies, transportation and utilities. (Refer to §337.A.1.i., Pricing for Extra Sales Items, for specific information concerning pricing procedures.) All monies earned or received must accrue to the school food service account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2151 (December 2001), amended LR 29:

§741. Competitive Foods

A. - B.4. ...

a. Local school food service supervisors will provide principals and superintendents with information concerning the Competitive Foods Policy and regulations in regard to enforcement by the Louisiana DOE. The SFA will maintain documents that indicate each school's official schedule that includes designated times for lunch and concessions, if offered.

5. The SBESE recommends that all schools provide a minimum of 30 minutes per lunch period.

6. All complaints received by State DNA personnel regarding competitive foods violations, regardless of the source, will be forwarded to the local school food service supervisor for initial investigation.

7. Monitoring of competitive foods/concessions shall be conducted in the following manner:

a. Local school food service supervisors will have the responsibility to report to their superintendent/immediate supervisor and the principal in writing any competitive foods violations noted in the school. A written corrective action plan will be required from the principal to the superintendent with a copy to the school food service supervisor to ensure compliance.

b. The State or local SFA will make unannounced visits when notifications of violations are received. The school, organization, or individual(s) violating the competitive foods policy shall reimburse the school food service account for any funds withheld from the school food service program.

8. State DNA personnel will monitor competitive foods operations at local school systems on all State reviews or visits and shall have the responsibility and authority to assess fiscal sanctions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2151 (December 2001), amended LR 29:

§747. Donations of Leftover Food/Food Recovery Activities

A. - A.4.h. ...

B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2152 (December 2001), amended LR 29:

§751. Removal/Transfer of Equipment, Food and Supplies

A. Only authorized personnel may transfer equipment, food and supplies between schools. No foods, including leftovers, shall be removed from the school food service department by any employee of the school system. Legal action could result. Local policies that outline disciplinary action for unauthorized removal of equipment, food or supplies must be in place. (Refer to §2307, Food Taken from Schools, and §323.I, Disposition of Equipment for more information.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2153 (December 2001), amended LR 29:

§755. Appendices

A. - E. ...

F. Guidance for Reviewing Product Formulation Statements

G. - M. ...

N. Repealed.

Appendices A. - G ...

Appendix H. Traditional School Lunch Meal Patterns					
Traditional Food-Based Menu Planning Approach-Meal Pattern For Lunches					
Minimum Quantities					Recommended Quantities
Food Components And Food Items	Group I Ages 1-2 Preschool	Group II Ages 3-4 Preschool	Group III Ages 5-8 Grades K-3	Group IV Ages 9 And Older Grades 4-12	Group V Ages 12 And Older Grades 7-12
Milk (as a beverage)	6 fluid ounces	6 fluid ounces	8 fluid ounces	8 fluid ounces	8 fluid ounces
Meat or Meat Alternate (quantity of the edible portion as served): Lean meat, poultry, or fish Alternate Protein Products 1 Cheese Large egg Cooked dry beans or peas Peanut butter or other nut or seed butters Yogurt, plain or flavored, unsweetened or sweetened The following may be used to meet no more than 50% of the requirement and must be used in combination with any of the above: Peanuts, soynuts, tree nuts, or seeds, as listed in program guidance, or an equivalent quantity of any combination of the above meat/meat alternate (1 ounce of nuts/seeds = 1 ounce of cooked lean meat, poultry, or fish)	1 ounce 1 ounce 1 ounce 1/2 1/4 cup 2 tablespoons 4 ounces or 1/2 cup 1/2 ounce = 50%	1 1/2 ounces 1 1/2 ounces 1 1/2 ounces 3/4 3/8 cup 3 tablespoons 6 ounces or 3/4 cup 3/4 ounce = 50%	1 1/2 ounces 1 1/2 ounces 1 1/2 ounces 3/4 3/8 cup 3 tablespoons 6 ounces or 3/4 cup 3/4 ounce = 50%	2 ounces 2 ounces 2 ounces 1 1/2 cup 4 tablespoons 8 ounces or 1 cup 1 ounce = 50%	3 ounces 3 ounces 3 ounces 1 1/2 3/4 cup 6 tablespoons 12 ounces or 1 1/2 cups 1 1/2 ounce = 50%
Vegetable or Fruit: 2 or more servings of vegetables, fruits or both	1/2 cup	1/2 cup	1/2 cup	3/4 cup	3/4 cup
Grains/Breads: (servings per week): Must be enriched or whole grain. A serving is a slice of bread or an equivalent serving of biscuits, rolls, etc., or 1/2 cup of cooked rice, macaroni, noodles, other pasta products or cereal grains	5 servings per week 2 Cminimum of 1/2 serving per day	8 servings per week 2 Cminimum of 1 serving per day	8 servings per week 2 Cminimum of 1 serving per day	8 servings per week 2 Cminimum of 1 serving per day	10 servings per week 2 Cminimum of 1 serving per day

¹ Must meet the requirements in appendix A of CFR 210.

² For the purposes of this table, a week equals five days.

Appendix I. Traditional School Breakfast Meal Pattern			
Traditional Food-Based Menu Planning Approach-Meal Pattern For Breakfasts			
Food Components and Food Items	Ages 1-2	Ages 3, 4, and 5	Grades K-12
Milk (fluid) (as a beverage, on cereal or both)	4 fluid ounces	6 fluid ounces	8 fluid ounces
JUICE/FRUIT/VEGETABLE: Fruit and/or vegetable; or full-strength fruit juice or vegetable juice	1/4cup	1/2 cup	1/2 cup
Select One Serving from Each of the Following Components, Two from One Component, or an Equivalent Combination: GRAINS/BREADS: Whole-grain or enriched bread Whole-grain or enriched biscuit, roll, muffin, etc. Whole-grain, enriched or fortified cereal MEAT OR MEAT ALTERNATES: Meat/poultry or fish Alternate protein products 1 Cheese Large egg Cooked dry beans or peas Peanut butter or other nut or seed butters Nuts and/or seeds (as listed in program guidance) 2 Yogurt, plain or flavored, unsweetened or sweetened	1/2 slice 1/2 serving 1/4 cup or 1/3 ounce 1/2 ounce 1/2 ounce 1/2 ounce 1/2 2 tablespoons 1 tablespoon 1/2 ounce 2 ounces or 1/4 cup	1/2 slice 1/2 serving 1/3 cup or 1/2 ounce 1/2 ounce 1/2 ounce 1/2 ounce 1/2 2 tablespoons 1 tablespoon 1/2 ounce 2 ounces or 1/4 cup	1 slice 1 serving 3/4 cup or 1 ounce 1 ounce 1 ounce 1 ounce 1/2 4 tablespoons 2 tablespoons 1 ounce 1 ounce 4 ounces or 1/2 cup

¹ Must meet the requirements in appendix A of CFR 220.

² No more than 1 ounce of nuts and/or seeds may be served in any one breakfast.

Appendix L. Enhanced Food-Based Menu Plan for Breakfast				
Enhanced Food-Based Menu Planning Approach-Meal Pattern For Breakfasts				
Food Components And Food Items	Required For			Option For
	Ages 1-2	Preschool	Grades K-12	Grades 7-12
Milk (fluid) (as a beverage, on cereal or both)	4 fluid ounces	6 fluid ounces	8 fluid ounces	8 fluid ounces
Juice/Fruit/Vegetable: Fruit and/or vegetable; or full-strength fruit juice or vegetable juice	1/4 cup	1/2 cup	1/2 cup	1/2 cup
Select one serving from each of the following components, two from one component or an equivalent combination: GRAINS/BREADS: Whole-grain or enriched bread Whole-grain or enriched biscuit, roll, muffin, etc. Whole-grain, enriched or fortified cereal MEAT OR MEAT ALTERNATES: Meat/poultry or fish Alternate protein products 1 Cheese Large egg Cooked dry beans or peas Peanut butter or other nut or seed butters Nuts and/or seeds (as listed in program guidance) 2 Yogurt, plain or flavored, unsweetened or sweetened	1/2 slice 1/2 serving 1/4 cup or 1/3 ounce 1/2 ounce 1/2 ounce 1/2 ounce 1/2 2 tablespoons 1 tablespoon 1/2 ounce 2 ounces or 1/4 cup	1/2 slice 1/2 serving 1/3 cup or 1/2 ounce 1/2 ounce 1/2 ounce 1/2 ounce 1/2 2 tablespoons 1 tablespoon 1/2 ounce 2 ounces or 1/4 cup	1 slice 1 serving 3/4 cup or 1 ounce 1 ounce 1 ounce 1 ounce 1/2 4 tablespoons 2 tablespoons 1 ounce 4 ounces or 1/2 cup	1 slice 1 serving 3/4 cup or 1 ounce3 1 ounce 1 ounce 1 ounce 1/2 4 tablespoons 2 tablespoons 1 ounce 4 ounces or 1/2 cup

¹ Must meet the requirements in appendix A of CFR 220.

² No more than 1 ounce of nuts and/or seeds may be served in any one breakfast

³ Plus an additional serving of one of the Grains/Breads on the above chart.

Appendix M. Infant Breakfast Pattern			
	0-3 Months	4-7 Months	8-11 Months
Iron Fortified Formula ¹ or Breast Milk ^{2 3}	4-6 Fluid Ounces	4-8 Fluid Ounces	6-8 Fluid Ounces and
Iron Fortified Dry Infant Cereal ^{1 4}		0-3 Tablespoons (Optional)	2-4 Tablespoons and
Fruit and/or Vegetable ⁴			1-4 Tablespoons

² It is recommended that breast milk be served in place of formula for infants from birth through 11 months.

³ For some breastfed infants who regularly consume less than the minimum amount of breast milk per feeding, a serving of less than the minimum amount of breast milk may be offered, with additional breast milk offered if the infant is still hungry.

⁴ A serving of this component is required only when the infant is developmentally ready to accept it.

* One to four tablespoons meat, fish, poultry, egg yolk, cooked dry beans, or peas or 1/2-2 ounces cheese or 1-4 tablespoons cottage cheese, cheese food, or cheese spread

Infant Lunch Pattern			
	0-3 Months	4-7 Months	8-11 Months
Iron Fortified Formula ¹ or Breast Milk ^{2 3}	4-6 Fluid Ounces	4-8 Fluid Ounces	6-8 Fluid Ounces and
Iron Fortified Dry Infant Cereal ^{1 4}		0-3 Tablespoons (Optional)	2-4 Tablespoons and/or 1-4 Tablespoons Meat/Alternate* and
Fruit And/Or Vegetable ⁴		0-3 Tablespoons (Optional)	1-4 Tablespoons

¹ Infant formula and dry infant cereal shall be iron-fortified.

Appendix N. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2153 (December 2001), amended LR 29:

Chapter 9. Afterschool Care Program

§901. General

A. ...

B. The Afterschool Care Program must be administered by a school food authority (SFA) participating in the National School Lunch Program (NSLP) or by a public or private nonprofit organization participating through the Child and Adult Care Food Program (CACFP). Eligible organizations must enter into an agreement with the State Agency, thereby, assuming full responsibility for meeting all program requirements mandated by Federal and State laws.

C. ...

D. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2160 (December 2001), amended LR 29:

§911. Content of Meals

A. ...

B. Participants must be given two different components of the four components specified in the snack meal pattern in order to claim a meal for reimbursement. Unlike NSLP and SBP, there is no Offer versus Serve option in the Afterschool Care Program.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2161 (December 2001), amended LR 29:

Chapter 11. Personnel

§1115. Description of Louisiana School Food Service Training Program

A. ...

B. Phase I is designed for all food service technicians/employees. Phase I consists of basic information in the areas of safety, sanitation, equipment, food production, food handling, working with others, and nutrition. While Phase I is not mandated, anyone whom the SFA wants to become a manager must pass the Phase I Manager exam. The only prospective school food service managers exempt from this requirement are those persons with an associate's, bachelor's, or master's degree from a regionally accredited institution with 18 semester hours of Food and Nutrition and/or Institutional Management.

C. Phases II and III are designed for food service manager applicants. Phase II consists of areas of personnel, public relations, safety, sanitation, nutrition, food production, and property management.

D. - D.3. ...

E. Phase III is a training course that includes, but is not limited to, policies and history of Child Nutrition Programs, forms, food distribution. To be registered for Phase III, the applicant shall have passed the Phase II examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2166 (December 2001), amended LR 29:

§1131. Staffing for Individual Programs

A. A staffing formula using "meals per labor hour" (MPLH) is an excellent tool to assist in determining the

number of labor hours needed at an individual site or to determine the productivity rate of each site. The productivity rate or meals per labor hour (MPLH) is the number of meal equivalents (all lunches, 1/2 all breakfasts, 1/5 of all snacks, extra sales meal equivalents) produced and served per hour of labor used. (Refer to Chapter 3, §339 and §335 for additional information on converting breakfast, lunch, snacks, and extra sales into meal equivalents.) The MPLH may vary depending on the following factors:

1. type of food production system (on-site, central kitchen, bulk satellite, pre-plated satellite, etc.);
2. level of service (self-serve, plated on serving line) vending, etc.);
3. menu choices (scratch cooking versus convenience items);
4. kitchen layout and design;
5. facility size;
6. skill level of employees, etc.

B. The following steps may be used to develop a target MPLH:

1. determine a feasible target MPLH for each site; the determination can be based on industry standards or on data provided from the previous year's staffing decisions with necessary adjustments.

$$\text{Number of Meal Equivalents (Output)} \div \text{Productivity Rate or Meals per Number of Labor Hours (Input) Labor Hour (MPLH)}$$

2. calculate the MPLH for each site; an example is given below.

Site: School 444	No. Labor Hours Assigned: 36	Target MPLH: 15
Meals Served	Meal Equivalents	
ADP Lunch	335	335
ADP Breakfast	190	95
ADP Snack	76	15
Extra Sales Equivalents*		8
Total Meal Equivalents		453
MPLH = 453 meal equivalents ÷ 36 hours assigned labor/day = 14 Hours Over/Under: +1		
Meal Equivalents:		
1 lunch = 1 meal equivalent		
2 breakfasts = 1 meal equivalent		
5 snacks = 1 meal equivalent		
Extra sales income totaling the average cost of a meal from the previous school year = 1 meal equivalent		

$$\text{* Extra sales income from previous year} \div \text{meal equivalent factor/number of serving days} = \$3,066.50 \div 2.26 \div 180 = 8$$

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2167 (December 2001), amended LR 29:

Chapter 15. Procurement

§1501. Purchasing Guidelines

A. ...

B. An organized and efficient procurement procedure, which is an important aspect of food service, is essential for good management of the food service program. The SFS supervisor or manager should be responsible for determining the quality, quantity, performance, and usage of each product purchased. SFAs must have a written procurement plan that

contains the code of conduct and describes procurement procedures.

C. Procurement procedures must ensure that all Federal and State laws and regulations governing procurement are followed when purchasing materials and supplies utilized in the SFS program. These procedures include equipment, vehicles, and other movable property, food items and other supplies used in food service. It is not allowable to use school food service funds to purchase initial equipment for a school food service program. (Refer to Equipment Chapter §1303.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2183 (December 2001), amended LR 29:

§1503. Procurement Systems

A. Competitive Sealed Bids (Formal)

1. All purchases of materials and supplies exceeding the aggregate sum of \$15,000 must be formally bid. Aggregate is defined as the dollar value of items purchased from a single source for a bid period: for example, quotations are obtained on a food item for a two-month period, but the foods are ordered weekly during that period. No weekly invoices total \$15,000, but the total invoices during the two-month period are over \$10,000. In this example, the aggregate amount is the value of all items purchased during the two-month period, so the item must be formally bid.

2. Breaking up purchases with the intent of circumventing formal advertising procedures is contrary to Federal procurement regulations. Any change in the SFAs normal purchasing practices resulting in the aggregate amount purchased becoming less than \$15,000 must be documented for review and audit purposes.

3. - 6.a. ...

b. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion (Lower Tier Covered Transactions (All contracts > \$100,000) See §1517);

c. Certification Regarding Lobbying (All contracts > \$100,000) See §1517);

A.6.d. - B.1. ...

a. the aggregate amount does not exceed \$15,000.00; and/or

b. ...

2. Purchases of materials and supplies for which the aggregate amount does not exceed \$15,000 shall be made by obtaining an adequate number of price quotations. The adequate number of price quotations for any items purchased under small purchase procedures that must be obtained is determined by local market conditions. Regardless of dollar value, the SFA must have open and free competition. If in a small rural parish there are only two produce vendors that provide service to the area, two quotes may be sufficient. However, in a larger metropolitan area where there are six produce vendors, all six should be given an opportunity to submit price quotations.

3. Price quotes can be oral or written. At least three telephone, handwritten or facsimile quotations must be obtained for materials and supplies costing less than \$15,000. A written confirmation of the accepted offer shall be obtained and made part of the purchase file. If quotations

lower than the accepted quotations are received, the reasons for their rejection shall be recorded in the purchase file. All written documentation must be maintained on file for three years after final payments have been made for the Federal fiscal year to which they pertain.

3.a. - 7.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2183 (December 2001), amended LR 29:

§1509. Other Procurement Methods

A. - D.a.

E. Purchasing from a Sole Source/Single Source

1. Several methods can be used when purchasing from a sole or single source. A SFA can use small purchase procedures by soliciting quotes when the aggregate amount is under \$15,000. Documentation of contacts must be maintained. Competitive sealed bids (formal advertising) must be used when the aggregate amount is over \$15,000. If the aggregate amount of a purchase exceeds \$15,000, a SFA must go through the regular bidding process even if only one source is known. If only one bid was received, documentation would be available from the single source. If no bids were received, the SFA must re-bid or consider cooperative (piggyback) purchasing, or State Bid Contract. Non-competitive negotiation may also be used if the other methods have failed. The decision to use non-competitive negotiation must be adequately justified in writing and available for audit and review.

E.2 - G.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2186 (December 2001), amended LR 29:

§1511. Diversion of Commodities for Processing

A. Federal and State procurement regulations must be followed when contracting for the processing of commodities. All contracts exceeding the sum of \$15,000 shall be advertised and awarded to the lowest responsible bidder. Purchases less than \$15,000 shall be made by obtaining no fewer than three telephone, facsimile or hand written quotations. Bids shall be accepted only from approved USDA commodity processors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2187 (December 2001), amended LR 29:

§1533. Instructions to Vendor

A. - B.1. ...

2. When a public SFA desires to purchase technical equipment, apparatus, machinery, materials, or supplies of a certain type and such purchases are clearly in the public interest, the SFA may specify a particular brand, make, or manufacturer in the specifications let out for public bid. If a particular brand, make or manufacturer is specified, the model or catalog number shall be specified. The brand name or equal description may be used as a means of defining a quality standard. Wherever in specifications the name of a certain brand, make, manufacturer, or definite specification is utilized, the specifications shall state clearly that they are

used only to denote the quality standard of product desired and that they do not restrict bidders to the specific brand, make, manufacturer, or specification named; that they are used only to set forth and convey to prospective bidders the general style, type, character, and quality of product desired; and that equivalent products will be acceptable. Specifications must state clearly when and where deliveries are to be made.

C. - M.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2190 (December 2001), amended LR 29:

Chapter 17. Commodities

§1709. Care and Storage of Commodities

A. - A.1.d.i. ...

ii. and properly dispose of the out of condition food;

iii. Any shortages found during the delivery check should be noted on the receiving documents. The receiving documents must be signed by the driver to confirm the differences due to shortages or out-of-condition foods.

2. - 2.a. ...

b. physical inventory of all USDA commodities on hand must be taken on the last working day of the month and submitted to LDAF by the 10th of each month.

c. Perpetual inventories must be reconciled with physical inventory monthly.

d. Food should be ordered in quantities that can be properly stored and utilized without waste. An inventory of no more than a six-month supply of commodities should be maintained except in unusual circumstances.

3. - 3.a.-b. ...

4. Cooler/Freezer Checks

a. Cooler and freezer temperatures must be checked at least every other day, even during vacation and holiday periods. The only allowable exception is when it is not possible to monitor on weekends, in which case temperature checks should be made late Friday afternoon and early Monday morning. Automated alarm systems may be used if they produce written records of temperatures and dates upon request. Documentation is required each time the acceptable range is exceeded.

4.b. - 5.a. ...

6. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2193 (December 2001), amended LR 29:

Chapter 19. Sanitation

§1911. Cooking

A. - E. ...

F. Cutting boards, knives, and other food contact surfaces shall be washed, rinsed, and sanitized after each contact with a potentially hazardous food. It is recommended that cutting boards of different colors be used for different foods. For example, red for meat, blue for poultry, and green for fresh vegetables.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2195 (December 2001), amended LR 29:

Chapter 21. Civil Rights Handling Complaints

§2101. Responsibilities of the SFA

A. - A.1.b. ...

2. Parents or guardians of children, as well as local minority and grassroots organizations, must be informed of the availability of program benefits and services, the nondiscrimination policy, and all significant changes in existing requirements that pertain to program eligibility and benefits. This dissemination of the information may be accomplished through the news release, letters to parents, the income scale, and the application form.

A.3. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 27:2197 (December 2001), amended LR 29:

Chapter 25. Summer Food Service Program

§2523. Audit Requirements for the Summer Food Service Program

A. Refer to §333 for specific audit requirements that also apply to approved, participating sponsoring institutions.

B. Reporting to the Louisiana Department of Education. If a participating sponsoring institution's Federal expenditures are less than \$300,000 in a fiscal year, that sponsoring institution shall annually report this information to the Louisiana Department of Education, to ensure compliance with Federal audit requirements.

1. Circular A-133 Subpart A §105 defines recipient or subrecipient. The main criteria for determining if a sponsoring institution is a recipient or a subrecipient of Federal funds is compliance with Federal program requirements as a criteria of receiving and expending the Federal funds.

C. While a sponsoring institution that does not meet the annual Federal expenditure threshold of \$300,000 is not required to have an audit of such funds, records must be available for review or audit by appropriate officials of any federal, state, or local government agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1737 (August 2002), amended LR 29:

Chapter 29. Child and Adult Care Food Program

§2911. Audit Requirements for the Child and Adult Care Food Program

A. Refer to §333 for specific audit requirements that also apply to approved, participating sponsoring institutions.

B. Reporting to the Louisiana Department of Education. If a participating sponsoring institution's Federal expenditures are less than \$300,000 in a fiscal year, that sponsoring institution shall annually report this information to the Louisiana Department of Education, to ensure compliance with Federal audit requirements.

1. Circular A-133 Subpart A §105 defines recipient or subrecipient. The main criteria for determining if a sponsoring institution is a recipient or a subrecipient of Federal funds is compliance with Federal program

requirements as a criteria of receiving and expending the Federal funds.

C. While a sponsoring institution that does not meet the annual Federal expenditure threshold of \$300,000 is not required to have an audit of such funds, records must be available for review or audit by appropriate officials of any federal, state, or local government agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1737 (August 2002), amended LR 29:

Chapter 31. Disaster Feeding

§3115. Procedures to Follow after the Shelter Class

A. Complete and submit the commodity forms to Food Distribution Division within 24 hours after site closure.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2208 (December 2001), amended LR 29:

§3119. Food Salvage at School Sites

A. ...

B. In case of floods, destroy all foods that may have come into direct contact with flood-waters. Unless exposed to floodwaters (through seepage into freezer), solid frozen foods are usually safe. Intact (not dented or bulging) canned foods can be salvaged by removing labels and scrubbing the surfaces with hot soapy water. Rinse cans with clean water and soak in chlorine solution for 90 seconds. Mark the can with its content name and expiration date.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2208 (December 2001), amended LR 29:

§3121. Power Outages

A. Refer to Chapter 19, Sanitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2208 (December 2001), amended LR 29:

Chapter 33. Financial Management and Accounting for Child and Adult Care Food Program Family Day Care Homes (FDCH)

§3313. Audit/Review

A. - A. 1. ...

2. Reporting to the Louisiana Department of Education. If a participating sponsor's Federal expenditures are less than \$300,000 in a fiscal year, that sponsor shall annually report this information to the Louisiana Department of Education, to ensure compliance with Federal audit requirements.

a. Circular A-133 Subpart A §105 defines recipient or subrecipient. The main criteria for determining if a sponsor is a recipient or a subrecipient of Federal funds is compliance with Federal program requirements as a criteria of receiving and expending the Federal funds.

b. While a sponsoring institution that does not meet the annual Federal expenditure threshold of \$300,000 is not required to have an audit of such funds, records must be

available for review or audit by appropriate officials of any federal, state, or local government agency.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 27:2213 (December 2001), amended LR 28:1738 (August 2002), LR 29:

Chapter 34. Louisiana Child Nutrition Programs Appeals Procedures

§3401. Purpose

A. The rules and regulations contained in this Subpart shall govern and control procedures used by the Louisiana Department of Education, Division of Nutrition Assistance (hereafter referred to as State Agency) for taking action against a school food authority or a child and adult care food program sponsor (hereafter referred to as institution).

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1738 (August 2002); amended LR 29:

§3403. Service

A. The service of the Notice of Proposed Action, Request for Appeal and Decision shall be made personally or by official U.S. postal certified mail, return receipt requested.

B. Service upon an institution's authorized representative, officer, or agent constitutes service upon that institution.

C. Service by certified mail is complete upon the date of receipt. An official U.S. postal receipt from the certified mailing constitutes prima facie evidence of service. Any other orders, notices, or documents served or exchanged pursuant to these rules shall be done through personal service, the U.S. mail, all postage prepaid, facsimile or email. Refer to the Glossary for specific definition of notices.

1. For purposes of determining whether services have been timely made, if the last day of any deadline established by these rules falls on a weekend or a state holiday, service is considered timely made if received on or before the close of business of the next business day. If the deadline for service falls on a business day, service must be made before close of business that day.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE Promulgated by the Board of Elementary and Secondary Education, LR 28:1738 (August 2002), amended LR 29:

§3405. Notice of Proposed Action

A. The State Agency shall notify the institution, in writing, of the actions being taken through a "Notice of Proposed Action." This notice shall contain the following information:

1. a list of specific violations of program rules and regulations alleged to have been committed by the institution;

2. the specific amount of the fiscal sanction assessed against the institution, if any;

3. a statement specifying what action the institution must take to correct the violation(s) to avoid further proceedings;

4. a statement of the time lines related to the proposed action;

5. a statement as to the consequences for failing to timely take corrective actions, make payments, or make a Request for Appeal;

6. a statement of the institution's right to appeal the proposed action;

7. the name, address and telephone number of the hearing officer.

B. A Notice of Proposed Action suspending or terminating an institution's Child and Adult Care Food Program (CACFP) participation shall be sent to the institution's executive director, the chairman of the board of directors, identified responsible principals and responsible individuals and shall also include further suspension proceedings as required in the CACFP regulations.

C. If the proposed suspension is due to the institution's submission of a false or fraudulent claim for reimbursement, the Notice of Proposed Action shall also state:

1. that the effective date of suspension will be 10 days after the institution's receipt of the suspension notice;

2. the institution's written request for a suspension review must be received by the hearing officer within 10 days of the institution's receipt of the Notice of Proposed Action along with written documentation opposing the proposed suspension.

D. The institution must also send a copy of the request for a suspension review to the State Agency.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1739 (August 2002), amended LR 29:

§3407. Request for Appeal

A. Institutions wishing to appeal proposed actions (except suspension of CACFP participation) shall serve a written Request for Appeal upon the State Agency not later than 15 calendar days after the date of receipt of the Notice of Proposed Action.

B. The Request for Appeal shall contain the following information:

1. a listing of what specific violations set forth in the Notice of Proposed Action are being appealed together with a short and plain statement of each contested issue of fact or law concerning each violation;

2. a statement specifying which of the following two forms of appeal an institution seeks:

a. a review of the records with the right to submit additional written information to dispute the proposed action; or

b. a hearing. Appeals will be conducted by a fair and impartial hearing officer. The institution may be represented by legal counsel or another designated individual;

c. a statement as to the relief or remedy the institution seeks from the appeal.

C. The State Agency must acknowledge receipt of the Request for Appeal within 10 calendar days of its receipt of the request.

D. Institutions wishing to have a review of the State Agency's proposed suspension of their CACFP participation

must submit a written request for a review directly to the hearing officer at the same time.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1739 (August 2002), amended LR 29:

§3409. Appeals on the Record; Submissions

A. Institutions and responsible principals and responsible individuals opting to appeal proposed actions by a review of the record shall submit all documents and information, in written form, that they wish to have considered in the appeal to the hearing officer not later than 30 calendar days after receipt of the Notice of Proposed Action.

B. The State Agency shall submit all documents and written information it wishes to have considered to the hearing officer not later than 30 calendar days after the institution's receipt of the Notice of Proposed Action.

C. Any information on which the State Agency's action was based must be available to the institution and the responsible principals and responsible individuals for inspection from the date of the State Agency's receipt of the Request for Appeal.

D. The hearing officer must conduct a hearing in addition to, or in lieu of, a review of the record only if the institution or the responsible principals and responsible individuals request a hearing in the written Request for Appeal.

E. The hearing officer must immediately notify the State Agency that an institution has contested the proposed suspension.

1. The State Agency must immediately submit to the hearing officer a copy of the Notice of Proposed Action suspending the institution's CACFP participation and all supporting documents.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1739 (August 2002), amended LR 29:

§3410. Notice and Time of Hearing

A. If a hearing (not suspension review) is requested in writing, the hearing officer shall schedule the hearing date to allow rendering of the decision within 60 days from the date of receipt of the Request for Appeal by the State Agency. The hearing officer shall notify the institution and the State Agency in writing of the time, date, and place of the hearing, at least 10 calendar days in advance of the date of the hearing.

B. A representative of the State Agency must be allowed to attend the hearing to respond to the testimony of the institution and the responsible principals and responsible individuals and to answer questions posed by the hearing officer.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1739 (August 2002), repromulgated LR 28:1950 (September 2002), amended LR 29:

§3411. Effect of Appeal upon Agency Actions

A. The Notice of Proposed Action issued to the institution shall remain in effect until the decision is rendered in the appeal.

B. The State Agency must assess interest on overpayments in the Notice of Proposed Action, through the appeal period, unless the hearing officer's decision overturns the State Agency's action establishing the overpayment.

C. During the appeal period, the State Agency must continue its efforts to recover any advances that are in excess of the claim for reimbursement for the applicable period.

D. Participating institutions may continue to operate and receive reimbursement for which they are eligible under the program during an appeal of a proposed action, unless the State Agency's action suspends the participation of an institution. Federal CACFP regulations specify reasons for State Agency suspension such as an imminent threat to the health or welfare of the public caused by the institution or to the participants at an institution, or the institution has knowingly submitted a false or fraudulent claim for reimbursement. The basis for the suspension must be stated in the Notice of Proposed Action.

1. The State Agency is prohibited from paying any claims for reimbursement received from a suspended institution unless the hearing officer's decision overturns the State Agency's action.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1739 (August 2002), amended LR 29:

§3413. Default

A. The hearing officer may declare any party in default who, without good cause shown:

1. fails to file brief or memorandums or exchange information and evidence as may be required by the hearing officer or these rules;

2. fails to appear at or participate in any pre-hearing conference;

3. fails to appear at or to participate in the hearing.

B. If the institution's representative, or the responsible principals or responsible individuals or their representative fail to appear at a scheduled hearing, they waive the right to a personal appearance before the hearing officer, unless the hearing officer agrees to reschedule the hearing.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1739 (August 2002), amended LR 29:

§3419. Decision, Judicial Review, Records

A. The hearing officer shall render a decision which shall include findings of fact, conclusions, and a statement as to the reasons for the decision. The decision (except for suspension reviews) shall be rendered within 60 days of the receipt of the Request for Appeal by the State Agency. The decision on the State Agency's proposed participation suspension shall be rendered within ten days of the hearing officer's receipt of the institution's documentation opposing the proposed suspension. The decision shall be served to the institution and the State Agency by the hearing officer and shall constitute the final State Agency action for purposes of judicial or other review. The decision of the hearing officer can be appealed as provided by law.

B. The appeal record, where the institution chooses to submit written information to dispute the State Agency action taken against it, shall consist of that written information together with such written information as the State Agency chooses to likewise submit to support its Notice of Proposed Action and the decision thereon.

C. The appeal record of a hearing shall consist of the evidence submitted at the hearing, a statement of any matter officially noticed, offers of proof, objections and rulings thereon, a recording of the hearing procedures, and the hearing officer's decision. A verbatim transcript of the recorded proceedings shall not be accomplished unless requested by one of the parties, at its cost, or in the event of a judicial appeal.

D. The hearing officer shall be the custodian of the records. The appeal record shall be maintained for a period of not less than three years from the date the decision is mailed to the institution or the date of the submission of the final claim for reimbursement of the action involving the appeal or resolving of the action, whichever comes later.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1740 (August 2002), amended LR 29:

Chapter 35. Glossary

§3501. Definitions/Abbreviations

Accrual Basis Accounting that revenue is reported in which the service (or sale) occurs regardless of when the payment is received. Liabilities are reported in the period in which they are incurred regardless of when the payment is made.

Adopted Child a child for whom a household has accepted legal responsibility and who is considered to be a member of the household.

Allowable Costs authorized expenditures, both operating and administrative, that are necessary and reasonable for proper and efficient administration of the child nutrition program.

Competitive Sealed Bids the procurement method, commonly called formal bid procedure, required by Federal regulations whenever the aggregate purchase amount exceeds \$15,000. Purchase by competitive sealed bids requires:

1. a public advertisement of the invitation to bid;
2. bid solicitations from an adequate number of known suppliers;
3. a clear description of the items or services needed; and
4. the public opening of bids.

Formal Bid a common name for the purchase method of using competitive sealed bids. A formal bid, or competitive sealed bid, is required by Federal and State regulations when the aggregate purchase amount exceeds \$15,000.

Institution a public or private (nonprofit, proprietary Title XIX, proprietary Title XX, or other as allowed by the United

States Department of Agriculture) organization that holds an approved agreement with the State Agency to administer a child nutrition program(s) in accordance with all applicable Federal and State regulations.

Noncompetitive NegotiationCa procurement method that may be used when no price quotes can be obtained. It may be used when the item is available from a sole source; when a public emergency exists and the urgency for the item will not permit a delay for competitive solicitation; or when, after solicitation from a number of sources, competition is determined to be inadequate. If the cost of the item is more than \$15,000, State Agency authorization must be secured.

NoticeCa letter sent by certified mail, return receipt (or the equivalent private delivery service), by facsimile, or by email, that describes an action proposed or taken by a State agency or the United States Department of Agriculture, Food and Nutrition Service with regard to an institution's Program reimbursement or participation. Notice also means a letter sent by certified mail, return receipt (or the equivalent private delivery service), by facsimile, or by email, that describes an action proposed or taken by a sponsoring organization with regard to a day care home's participation. The notice must specify the action being proposed or taken and the basis for the action, and is considered to be received by the institution, responsible principal or responsible individual, or day care home five days after being sent to the addressee's last known mailing address, facsimile number, or email address.

Responsible Principal or Responsible Individual

1. a principal, whether compensated or uncompensated, who the State Agency or the United States Department of Agriculture, Food and Nutrition Service (FNS) determines to be responsible for an institution's serious deficiency;

2. any other individual employed by, or under contract with, an institution or sponsored center, who the State Agency or FNS determines to be responsible for an institution's serious deficiency; or

3. an uncompensated individual who the State Agency or FNS determines to be responsible for an institution's serious deficiency.

Small Purchase ProcedureCa type of procurement method that may be utilized whenever:

1. the aggregate purchase amount of food does not exceed \$15,000 (exception: milk and milk products);

2. the purchases are for highly perishable materials (for example, fresh produce); or

3. the purchase is for materials, equipment and/or supplies under \$15,000. Equipment and supplies costing less than \$15,000, must have no fewer than three telephone, facsimile or written quotations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(5); R.S. 17:10; R.S. 17:82; R.S. 17:191-1999; R.S. 1792.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2220 (December 2001), amended LR: 29:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule effect the stability of the family? No

2. Will the proposed Rule effect the authority and rights of parents regarding the education and supervision of their children? No

3. Will the proposed Rule effect the functioning of the family? No

4. Will the proposed Rule effect family earnings and family budget? No

5. Will the proposed Rule effect the behavior and personal responsibility of children? No

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes

Interested persons may submit comments until 4:30 p.m., August 9, 2003, to: Nina Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Louisiana Food and Nutrition Programs Policies of Operation

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

There is no estimated costs (savings) to state or local governmental units. This is a revision of *Bulletin 1196* which has incorporated all Federal and State policy changes which have already been implemented by the School Food Authorities. There will be no costs due to the fact the Bulletin will be on the Website and can be downloaded.

The State Board of Elementary and Secondary Education estimated cost for printing this policy change and first page of the fiscal and economic impact statement in the Louisiana Register is approximately \$816.00. Funds are currently budgeted for this purpose.

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
0306#069

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Scholarship/Grant Programs
(LAC 28:IV.701-705, 805, and 2103)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its Scholarship/Grant Rules (R.S. 17:3021-3026, R.S. 3041.10-15, R.S. 17:3042.1, and R.S. 17:3048.1).

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

**Title 28
EDUCATION**

**Part IV. Student Financial Assistance Higher
Education Scholarship and Grant Programs
Chapter 7. Tuition Opportunity Program for
Students (TOPS) Opportunity,
Performance, and Honors Awards**

§701. General Provisions

A. - D.3. ...

E. Award Amounts. The specific award amounts for each component of TOPS are as follows.

1.a. The TOPS Opportunity Award provides an amount equal to undergraduate tuition for full-time attendance at an eligible college or university for a period not to exceed eight semesters, including qualified summer sessions, twelve quarters, including qualified summer sessions, or an equivalent number of units in an eligible institution which operates on a schedule based on units other than semesters or quarters, except as provided by R.S. 17:3048.1.H, §503.D, §509.C., or §701.E.1.b. Attending a qualified summer session for which tuition is paid will count toward the eight-semester limit for TOPS.

b. The semester or term count for a student shall not be increased for any semester or term a student is unable to complete because of orders to active duty in the United States Armed Forces or National Guard, whether or not a full refund for the TOPS payment for that semester or term is received by LOSFA.

2.a. The TOPS Performance Award provides a \$400 annual stipend, prorated by two semesters, three quarters, or equivalent units in each academic year (college) and program year (non-academic program), in addition to an amount equal to tuition for full-time attendance at an eligible college or university, for a period not to exceed eight semesters, including qualified summer sessions, twelve quarters, including qualified summer sessions, or an equivalent number of units in an eligible institution which operates on a schedule based on units other than semesters or quarters, except as provided by R.S. 17:3048.1.H, §503.D, §509.C., or §701.E.2.b. The stipend will be paid for each qualified summer session, semester, quarter, term, or equivalent unit for which tuition is paid. Attending a qualified summer session for which tuition is paid will count toward the eight-semester limit for TOPS.

b. The semester or term count for a student shall not be increased for any semester or term a student is unable to

complete because of orders to active duty in the United States Armed Forces or National Guard, whether or not a full refund for the TOPS payment for that semester or term is received by LOSFA, provided that any amount of a stipend paid and not refunded shall be counted toward the total stipends allowed by law.

3.a. The TOPS Honors Award provides an \$800 annual stipend, prorated by two semesters, three quarters, or equivalent units in each academic year (college) and each program year (non-academic program), in addition to an amount equal to tuition for full-time attendance at an eligible college or university, for a period not to exceed eight semesters, including qualified summer sessions, twelve quarters, including qualified summer sessions, or an equivalent number of units in an eligible institution which operates on a schedule based on units other than semesters or quarters, except as provided by R.S. 17:3048.1.H, §503.D, §509.C. or §701.E.3.b. The stipend will be paid for each qualified summer session, semester, quarter, term, or equivalent unit for which tuition is paid. Attending a qualified summer session for which tuition is paid will count toward the eight-semester limit for TOPS.

b. The semester or term count for a student shall not be increased for any semester or term a student is unable to complete because of orders to active duty in the United States Armed Forces or National Guard, whether or not a full refund for the TOPS payment for that semester or term is received by LOSFA, provided that any amount of a stipend paid and not refunded shall be counted toward the total stipends allowed by law.

E.4. - G.2. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 25: 256 (February 1999), LR 26:67 (January 2000), LR 26:1262 (June 2000), LR 26:1995, 2000 (September 2000), repromulgated LR 27:1848 (November 2001), amended LR 28:447 (March 2002), LR 28:2331 (November 2002), LR 29:

§703. Establishing Eligibility

A. - A.5.a.i. ...

ii. for purposes of satisfying the requirements of 703.A.5.a.i., above, or 803.A.6.a., the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses:

Core Curriculum Course	Equivalent (Substitute) Course
Physical Science	General Science, Integrated Science
Algebra I	Algebra I, Parts 1 and 2, Integrated Mathematics I
Applied Algebra IA and IB	Applied Mathematics I and II
Algebra I, Algebra II and Geometry	Integrated Mathematics I, II and III*
Algebra II Geometry Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Integrated Mathematics II Integrated Mathematics III Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III*, Advanced Mathematics I, Advanced Mathematics II

Chemistry	Chemistry Com
Fine Arts Survey	Speech Debate (2 units)
Western Civilization	European History
*Applied Mathematics III was formerly referred to as Applied Geometry	

A.5.a.iii. - G.2. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64 and 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1998 and 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219 and 1219 (August 2001), LR 27:1850 (November 2001), LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:

§705. Maintaining Eligibility

A. To continue receiving the TOPS Opportunity, Performance or Honors Awards, the recipient must meet all of the following criteria:

1. have received less than four years or eight semesters of TOPS Award funds, except as provided in §701.E.1.b, §701.E.2.b, and §701.E.3.b, provided that each two terms or equivalent units of enrollment in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree shall be the equivalent of a semester; and

A.2. - D. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:637 (April 1998), amended LR 24:1904 (October 1998), LR 25:257 (February 1999), LR 25:656 (April 1999), LR 25:1091 (June 1999), LR 26:67 (January 2000), LR 26:688 (April 2000), LR 26:1996, 2001 (September 2000), LR 27:1853 (November 2001), LR 28:447 (March 2002), LR 28:772 (April 2002), LR 28:2332 (November 2002), LR 29:

Chapter 8. TOPS-TECH Award

§805. Maintaining Eligibility

A. To continue receiving the TOPS-TECH Award, the recipient must meet all of the following criteria:

1. have received the TECH Award for less than two years, except as provided by §805.C, unless reduced as required by §503.D; and

A.2. - B. ...

C. The semester or term count for a student shall not be increased for any semester or term a student is unable to complete because of orders to active duty in the United States Armed Forces or National Guard, whether or not a full refund for the TOPS Tech payment for that semester or term is received by LOSFA.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1905 (October 1998), amended LR 25:1091 (June 1999), LR

26:68 (January 2000), LR 26:689 (April 2000), LR 26:1997 and 2002 (September 2000), LR 27:1856 (November 2001), LR 28:774 (April 2002), LR 28:2332 (November 2002), LR 29:

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

A. - E.11.c. ...

F. Students who are granted an exception based on military service in accordance with Subsection 2103.E.9 above and who desire to enroll as a part time student in an eligible postsecondary institution while on active duty shall be eligible on request for TOPS payment for such enrollment. Any payment for part time attendance under this subsection shall count towards the student's maximum eligibility for up to the equivalent of eight full time semesters of postsecondary education in part time and full time semesters.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1015 (May 2000), LR 26:2002 (September 2000), LR 27:36 (January 2001), LR 27:1866 and 1875 (November 2001), LR 28:46 (January 2002), LR 28:449 (March 2002), LR 28:775 (April 2002), LR 28:2330 and 2333 (November 2002), LR 29:126 (February 2003), LR 29:

Interested persons may submit written comments on the proposed changes until 4:30 p.m., July 20, 2003, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

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

RULE TITLE: Scholarship/Grant Programs

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

State expenditures for TOPS awards are estimated to increase by up to \$30,650 for students unable to complete a term or semester because of orders to active duty and for whom a full refund of TOPS funds had not been made. No increase in funding is anticipated to result from the core curriculum change.

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

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

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

These changes would provide students who are unable to complete a term or semester because of orders to active duty with an additional term or semester of TOPS regardless of whether a full refund of their TOPS funds had been made, provide for part-time enrollment for such students, and add course equivalents to the high school core curriculum requirements for TOPS eligibility.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

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

George Badge Eldredge
General Counsel
0306#019

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Concentrated Animal Feeding Operations
(LAC 33:IX.2331, 2335, 2345, 2357, and 2533)(WQ050*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Quality regulations, LAC 33:IX.2331, 2335, 2345, 2357, and 2533 (Log #WQ050*).

This proposed Rule is identical to federal regulations found in 68 FR 7265-7269, No. 29, 2/12/03, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 4314, Baton Rouge, LA 70821-4314. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This proposed Rule ensures that concentrated animal feeding operations (CAFOs) take appropriate actions to manage manure effectively in order to protect the state's water quality. Improperly managed manure has caused serious, acute, and chronic water problems. This Rule will strengthen the requirements for CAFOs. The Rule establishes a mandatory requirement for all CAFOs to apply for an LPDES permit and to develop and implement a nutrient management plan. The revised guidelines establish performance expectations for existing and new sources to ensure appropriate storage of manure, as well as expectations for proper land application practices at the CAFO. This rulemaking is necessary to maintain delegation, authorization, etc., granted to Louisiana by EPA and to keep Louisiana's water regulations current with their federal counterpart. The basis and rationale for this Rule are to protect the waters of the state of Louisiana and to mirror the federal regulations in order to maintain equivalency.

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

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

**Chapter 23. The LPDES Program
Subchapter B. Permit Application and Special LPDES
Program Requirements**

§2331. Application for a Permit

A. Duty to Apply

1. Any person who discharges or proposes to discharge pollutants or who owns or operates a sludge-only facility whose sewage sludge use or disposal practice is regulated by 40 CFR Part 503, and who does not have an effective permit, except persons covered by general permits under LAC 33:IX.2345, or discharges excluded under LAC 33:IX.2315, or a user of a privately owned treatment works unless the state administrative authority requires otherwise under LAC 33:IX.2361.M, must submit a complete application to the Office of Environmental Services, Permits Division in accordance with this Section and LAC 33:IX.Chapter 23.Subchapters E-G. All concentrated animal feeding operations have a duty to seek coverage under an LPDES permit as described in LAC 33:IX.2335.D.

A.2. - I. ...

1. For concentrated animal feeding operations (CAFOs):

- a. the name of the owner or operator;
- b. the facility location and mailing address(es);
- c. the latitude and longitude of the production area (entrance to production area);
- d. a topographic map of the geographic area in which the CAFO is located showing the specific location of the production area, in lieu of the requirements of Paragraph F.7 of this Section;
- e. specific information about the number and type of animals, whether in open confinement or housed under roof (beef cattle, broilers, layers, swine weighing 55 pounds or more, swine weighing less than 55 pounds, mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses, ducks, turkeys, other);
- f. the type of containment and storage (anaerobic lagoon, roofed storage shed, storage ponds, underfloor pits, above ground storage tanks, below ground storage tanks, concrete pad, impervious soil pad, other) and total capacity for manure, litter, and process wastewater storage (tons/gallons);
- g. the total number of acres under control of the applicant available for land application of manure, litter, or process wastewater;
- h. the estimated amounts of manure, litter, and process wastewater generated per year (tons/gallons);
- i. the estimated amounts of manure, litter, and process wastewater transferred to other persons per year (tons/gallons); and
- j. for CAFOs that must seek coverage under a permit after December 31, 2006, certification that a nutrient

management plan has been completed and will be implemented upon the date of permit coverage.

I.2. - R.4.h. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:723 (June 1997), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2552 (November 2000), LR 26:2756 (December 2000), LR 27:45 (January 2001), LR 28:465 (March 2002), LR 28:1766 (August 2002), LR 29:

§2335. Concentrated Animal Feeding Operations

A. Permit Requirement for CAFOs. Concentrated animal feeding operations, as defined in Subsection B of this Section, are point sources that require LPDES permits for discharges or potential discharges. Once an operation is defined as a CAFO, the LPDES requirements for CAFOs apply with respect to all animals in confinement at the operation and all manure, litter, and process wastewater generated by those animals or the production of those animals, regardless of the type of animal.

B. Definitions Applicable to this Section

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

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

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

Concentrated Animal Feeding Operation (CAFO) Can AFO that is defined as a *Large CAFO* or as a *Medium CAFO* by the terms of this Subsection, or that is designated as a CAFO in accordance with Subsection C of this Section. Two or more AFOs under common ownership are considered to be a single AFO for the purposes of determining the number of animals at an operation, if they adjoin each other or if they use a common area or system for the disposal of wastes.

Land Application Area Cland under the control of an AFO owner or operator, whether it is owned, rented, or leased, to which manure, litter, or process wastewater from the production area is or may be applied.

Large Concentrated Animal Feeding Operation (Large CAFO) Can AFO that stables or confines as many as or more than the numbers of animals specified in any of the following categories:

- a. 700 mature dairy cows, whether milked or dry;
- b. 1,000 veal calves;
- c. 1,000 cattle other than mature dairy cows or veal calves (*Cattle* includes but is not limited to heifers, steers, bulls, and cow/calf pairs.);
- d. 2,500 swine, each weighing 55 pounds or more;
- e. 10,000 swine, each weighing less than 55 pounds;
- f. 500 horses;
- g. 10,000 sheep or lambs;
- h. 55,000 turkeys;
- i. 30,000 laying hens or broilers, if the AFO uses a liquid manure handling system;

j. 125,000 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system;

k. 82,000 laying hens, if the AFO uses other than a liquid manure handling system;

l. 30,000 ducks, if the AFO uses other than a liquid manure handling system; or

m. 5,000 ducks, if the AFO uses a liquid manure handling system.

Manure Cincludes manure, bedding, compost, and raw materials or other materials commingled with manure or set aside for disposal.

Medium Concentrated Animal Feeding Operation (Medium CAFO) Cincludes any AFO with the type and number of animals that fall within any of the ranges listed in this definition and that has been defined or designated as a CAFO. An AFO is a *Medium CAFO* if:

a. the type and number of animals that it stables or confines falls within any of the following ranges:

i. 200 to 699 mature dairy cows, whether milked or dry;

ii. 300 to 999 veal calves;

iii. 300 to 999 cattle other than mature dairy cows or veal calves (*Cattle* includes but is not limited to heifers, steers, bulls, and cow/calf pairs.);

iv. 750 to 2,499 swine, each weighing 55 pounds or more;

v. 3,000 to 9,999 swine, each weighing less than 55 pounds;

vi. 150 to 499 horses;

vii. 3,000 to 9,999 sheep or lambs;

viii. 16,500 to 54,999 turkeys;

ix. 9,000 to 29,999 laying hens or broilers, if the AFO uses a liquid manure handling system;

x. 37,500 to 124,999 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system;

xi. 25,000 to 81,999 laying hens, if the AFO uses other than a liquid manure handling system;

xii. 10,000 to 29,999 ducks, if the AFO uses other than a liquid manure handling system; or

xiii. 1,500 to 4,999 ducks, if the AFO uses a liquid manure handling system; and

b. either one of the following conditions are met:

i. pollutants are discharged into waters of the state through a manmade ditch, flushing system, or other similar manmade device; or

ii. pollutants are discharged directly into waters of the state that originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

Process Wastewater Cwater directly or indirectly used in the operation of the AFO for any or all of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning, or flushing pens, barns, manure pits, or other AFO facilities; direct contact swimming, washing, or spray cooling of animals; or dust control. *Process wastewater* also includes any water that comes into contact with any raw materials, products, or byproducts including manure, litter, feed, milk, eggs, or bedding.

Production Area Cthat part of an AFO that includes the animal confinement area, the manure storage area, the raw

materials storage area, and the waste containment areas. The animal confinement area includes, but is not limited to, open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milkrooms, milking centers, cowyards, barnyards, medication pens, walkers, animal walkways, and stables. The manure storage area includes, but is not limited to, lagoons, runoff ponds, storage sheds, stockpiles, under-house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage area includes, but is not limited to, feed silos, silage bunkers, and bedding materials. The waste containment area includes, but is not limited to, settling basins and areas within berms and diversions that separate uncontaminated storm water. Also included in the definition of *production area* are any egg washing or egg processing facility and any area used in the storage, handling, treatment, or disposal of mortalities.

Small Concentrated Animal Feeding Operation (Small CAFO) Can AFO that is designated as a CAFO and is not a *Medium CAFO*.

C. How May an AFO be Designated as a CAFO? The appropriate authority (i.e., state administrative authority or regional administrator, or both, as specified in Paragraph C.1 of this Section) may designate any AFO as a CAFO upon determining that it is a significant contributor of pollutants to waters of the state.

1. Who May Designate?

a. Approved States. In states that are approved or authorized by EPA under 40 CFR Part 123, CAFO designations may be made by the state administrative authority. The regional administrator may also designate CAFOs in approved states, but only where the regional administrator has determined that one or more pollutants in the AFO's discharge contributes to an impairment in a downstream or adjacent state or Indian country water that is impaired for that pollutant.

b. States With No Approved Program. The regional administrator may designate CAFOs in states that do not have an approved program and in Indian country where no entity has expressly demonstrated authority and has been expressly authorized by EPA to implement the NPDES program.

2. In making this designation, the state administrative authority or the regional administrator shall consider the following factors:

- a. the size of the AFO and the amount of wastes reaching waters of the state;
- b. the location of the AFO relative to waters of the state;
- c. the means of conveyance of animal wastes and process wastewaters into waters of the state;
- d. the slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of animal wastes, manure, and process wastewaters into waters of the state; and
- e. other relevant factors.

3. No AFO shall be designated under this Subsection unless the state administrative authority or the regional administrator has conducted an on-site inspection of the operation and determined that the operation should and could be regulated under the permit program. In addition, no AFO with numbers of animals below those established in the

definition of *Medium CAFO* in Subsection B of this Section may be designated as a CAFO unless:

a. pollutants are discharged into waters of the state through a manmade ditch, flushing system, or other similar manmade device; or

b. pollutants are discharged directly into waters of the state that originate outside of the facility and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

D. Who Must Seek Coverage Under an LPDES Permit?

1. All CAFO owners or operators must apply for a permit. All CAFO owners or operators must seek coverage under an LPDES permit, except as provided in Paragraph D.2 of this Section. Specifically, the CAFO owner or operator must either apply for an individual LPDES permit or submit a notice of intent for coverage under an LPDES general permit. If the state administrative authority has not made a general permit available to the CAFO, the CAFO owner or operator must submit an application for an individual permit to the state administrative authority.

2. Exception. An owner or operator of a Large CAFO does not need to seek coverage under an LPDES permit otherwise required by this Section once the owner or operator has received from the state administrative authority notification of a determination under Subsection F of this Section that the CAFO has "no potential to discharge" manure, litter, or process wastewater.

3. Information to Submit with Permit Application. A permit application for an individual permit must include the information specified in LAC 33:IX.2331. A notice of intent for a general permit must include the information specified in LAC 33:IX.2331 and LAC 33:IX.2345.

E. Land application discharges from a CAFO are subject to LPDES requirements. The discharge of manure, litter, or process wastewater to waters of the state from a CAFO as a result of the application of that manure, litter, or process wastewater by the CAFO to land areas under its control is a discharge from that CAFO subject to LPDES permit requirements, except where it is an agricultural storm water discharge as provided in 33 U.S.C. 1362(14). For purposes of this Subsection, where the manure, litter, or process wastewater has been applied in accordance with site-specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter, or process wastewater, as specified under LAC 33:IX.2357.E.1.f-i, a precipitation-related discharge of manure, litter, or process wastewater from land areas under the control of a CAFO is an agricultural storm water discharge.

F. "No Potential to Discharge" Determinations for Large CAFOs

1. Determination by the State Administrative Authority. The state administrative authority, upon request, may make a case-specific determination that a Large CAFO has "no potential to discharge" pollutants to waters of the state. In making this determination, the state administrative authority must consider the potential for discharges from both the production area and any land application areas. The state administrative authority must also consider any record of prior discharges by the CAFO. In no case may the CAFO be determined to have "no potential to discharge" if it has had a discharge within the five years prior to the date of the

request submitted under Paragraph F.2 of this Section. For purposes of this Section, the term "no potential to discharge" means that there is no potential for any CAFO manure, litter, or process wastewater to be added to waters of the state under any circumstance or climatic condition. A determination that there is "no potential to discharge" for purposes of this Section only relates to discharges of manure, litter, and process wastewater covered by this Section.

2. Information to Support a "No Potential to Discharge" Request. In requesting a determination of "no potential to discharge," the CAFO owner or operator must submit any information that would support such a determination within the time frame provided by the state administrative authority and in accordance with Subsections G and H of this Section. Such information must include all of the information specified in LAC 33:IX.2331.F and I.1.a-i. The state administrative authority has discretion to require additional information to supplement the request and may also gather additional information through on-site inspection of the CAFO.

3. Process for Making a "No Potential to Discharge" Determination. Before making a final decision to grant a "no potential to discharge" determination, the state administrative authority must issue a notice to the public stating that a "no potential to discharge" request has been received. This notice must be accompanied by a fact sheet that includes, when applicable, a brief description of the type of facility or activity that is the subject of the "no potential to discharge" determination, a brief summary of the factual basis upon which the request is based for granting the "no potential to discharge" determination, and a description of the procedures for reaching a final decision on the "no potential to discharge" determination. The state administrative authority must base the decision to grant a "no potential to discharge" determination on the administrative record, which includes all information submitted in support of a "no potential to discharge" determination and any other supporting data gathered by the permitting authority. The state administrative authority must notify any CAFO seeking a "no potential to discharge" determination of its final determination within 90 days of receiving the request.

4. What is the Deadline for Requesting a "No Potential to Discharge" Determination? The owner or operator must request a "no potential to discharge" determination by the applicable permit application date specified in Subsection G of this Section. If the state administrative authority's final decision is to deny the "no potential to discharge" determination, the owner or operator must seek coverage under a permit within 30 days after the denial.

5. The "no potential to discharge" determination does not relieve the CAFO from the consequences of an actual discharge. Any unpermitted CAFO that discharges pollutants into the waters of the state is in violation of the Clean Water Act even if it has received a "no potential to discharge" determination from the state administrative authority. Any CAFO that has received a determination of "no potential to discharge," but which anticipates changes in circumstances that could create the potential for a discharge, should contact

the state administrative authority and apply for and obtain permit authorization prior to the change of circumstances.

6. The state administrative authority retains authority to require a permit. When the state administrative authority has issued a determination of "no potential to discharge," the state administrative authority retains the authority to subsequently require LPDES permit coverage if circumstances at the facility change, if new information becomes available, or if there is another reason for the state administrative authority to determine that the CAFO has a potential to discharge.

G When Must a CAFO Seek Coverage Under an LPDES Permit?

1. Operations Defined as CAFOs Prior to April 14, 2003. For operations that were defined as CAFOs under regulations that were in effect prior to April 14, 2003, the owner or operator must have or seek to obtain coverage under an LPDES permit as of April 14, 2003, and comply with all applicable LPDES requirements, including the duty to maintain permit coverage in accordance with Subsection H of this Section.

2. Operations Defined as CAFOs as of April 14, 2003, Which Were Not Defined as CAFOs Prior to That Date. For all such CAFOs, the owner or operator of the CAFO must seek to obtain coverage under an LPDES permit by a date specified by the state administrative authority, but no later than February 13, 2006.

3. Operations That Become Defined as CAFOs After April 14, 2003, but Which Are Not New Sources. For newly constructed AFOs and AFOs that make changes to their operations that result in becoming defined as CAFOs for the first time after April 14, 2003, but are not new sources, the owner or operator must seek to obtain coverage under an LPDES permit, as follows:

a. for newly constructed operations not subject to effluent limitations guidelines, 180 days prior to the time the CAFO commences operation; or

b. for other operations (e.g., resulting from an increase in the number of animals), as soon as possible, but no later than 90 days after becoming defined as a CAFO; except that

c. if an operational change that makes the operation a CAFO would not have made it a CAFO prior to April 14, 2003, the operation has until April 13, 2006, or 90 days after becoming defined as a CAFO, whichever is later.

4. New Sources. New sources must seek to obtain coverage under a permit at least 180 days prior to the time that the CAFO commences operation.

5. Operations That are Designated as CAFOs. For operations designated as a CAFO in accordance with Subsection C of this Section, the owner or operator must seek to obtain coverage under a permit no later than 90 days after receiving notice of the designation.

6. No Potential to Discharge. Notwithstanding any other provision of this Section, a CAFO that has received a "no potential to discharge" determination in accordance with Subsection F of this Section is not required to seek coverage under an LPDES permit that would otherwise be required by this Section. If circumstances materially change at a CAFO that has received a "no potential to discharge" determination, such that the CAFO has a potential for a discharge, the

AFO has a duty to immediately notify the state administrative authority and seek coverage under an LPDES permit within 30 days after the change in circumstances.

H. Duty to Maintain Permit Coverage. No later than 180 days before the expiration of a permit, the permittee must submit an application to renew its permit, in accordance with LAC 33:IX.2331.G. However, the permittee need not continue to seek continued permit coverage or reapply for a permit if:

1. the facility has ceased operation or is no longer a CAFO; and
2. the permittee has demonstrated to the satisfaction of the state administrative authority that there is no remaining potential for a discharge of manure, litter, or associated process wastewater that was generated while the operation was a CAFO, other than agricultural storm water from land application areas.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:467 (March 2002), LR 29:

§2345. General Permits

A. - B.2.a. ...

b. The contents of the notice of intent shall be specified in the general permit and shall require the submission of information necessary for adequate program implementation, including at a minimum, the legal name and address of the owner or operator, the facility name and address, type of facility or discharges, and the receiving stream(s). General permits for storm water discharges associated with industrial activity from inactive mining, inactive oil and gas operations, or inactive landfills occurring on federal lands where an operator cannot be identified may contain alternative notice of intent requirements. All notices of intent shall be signed in accordance with LAC 33:IX.2333. Notices of intent for coverage under a general permit for concentrated animal feeding operations must include the information specified in LAC 33:IX.2331.I.1, including a topographic map.

B.2.c.-C.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21(September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2276 (October 2000), LR 26:2553 (November 2000), LR 28:468 (March 2002), LR 29:

Subchapter C. Permit Conditions

§2357. Additional Conditions Applicable to Specified Categories of LPDES Permits

The following conditions, in addition to those set forth in LAC 33:IX.2355, apply to all LPDES permits within the categories specified below.

A. - D. ...

E. Concentrated Animal Feeding Operations (CAFOs). Any permit issued to a CAFO must include the following requirements.

1. Requirements to Develop and Implement a Nutrient Management Plan. At a minimum, a nutrient management

plan must include best management practices and procedures necessary to implement applicable effluent limitations and standards. Permitted CAFOs must have their nutrient management plans developed and implemented by December 31, 2006. CAFOs that seek to obtain coverage under a permit after December 31, 2006, must have a nutrient management plan developed and implemented upon the date of permit coverage. The nutrient management plan must, to the extent applicable:

- a. ensure adequate storage of manure, litter, and process wastewater, including procedures to ensure proper operation and maintenance of the storage facilities;
- b. ensure proper management of mortalities (i.e., dead animals) to ensure that they are not disposed of in a liquid manure, storm water, or process wastewater storage or treatment system that is not specifically designed to treat animal mortalities;
- c. ensure that clean water is diverted, as appropriate, from the production area;
- d. prevent direct contact of confined animals with waters of the state;
- e. ensure that chemicals and other contaminants handled on-site are not disposed of in any manure, litter, process wastewater, or storm water storage or treatment system that is not specifically designed to treat such chemicals and other contaminants;
- f. identify appropriate site-specific conservation practices to be implemented, including as appropriate, buffers or equivalent practices, to control runoff of pollutants to waters of the state;
- g. identify protocols for appropriate testing of manure, litter, process wastewater, and soil;
- h. establish protocols to land-apply manure, litter, or process wastewater in accordance with site-specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter, or process wastewater; and
- i. identify specific records that will be maintained to document the implementation and management of the minimum elements described in Subparagraphs E.1.a-h of this Section.

2. Recordkeeping Requirements

a. The permittee must create, maintain for five years, and make available to the state administrative authority, upon request, the following records:

- i. all applicable records identified in accordance with Subparagraph E.1.i of this Section; and
- ii. in addition, all CAFOs subject to 40 CFR Part 412 must comply with recordkeeping requirements as specified in LAC 33:IX.2533.

b. A copy of the CAFO's site-specific nutrient management plan must be maintained on-site and made available to the state administrative authority upon request.

3. Requirements Relating to Transfer of Manure or Process Wastewater to Other Persons. Prior to transferring manure, litter, or process wastewater to other persons, Large CAFOs must provide the recipient of the manure, litter, or process wastewater with the most current nutrient analysis. The analysis provided must be consistent with the requirements of 40 CFR Part 412. Large CAFOs must retain for five years records of the date, the recipient's name and

address, and the approximate amount of manure, litter, or process wastewater transferred to another person.

4. Annual Reporting Requirements for CAFOs. The permittee must submit an annual report to the state administrative authority. The annual report must include:

a. the number and type of animals, whether in open confinement or housed under roof (beef cattle, broilers, layers, swine weighing 55 pounds or more, swine weighing less than 55 pounds, mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses, ducks, turkeys, other);

b. the estimated amount of total manure, litter, and process wastewater generated by the CAFO in the previous 12 months (tons/gallons);

c. the estimated amount of total manure, litter, and process wastewater transferred to other persons by the CAFO in the previous 12 months (tons/gallons);

d. the total number of acres for land application covered by the nutrient management plan developed in accordance with Paragraph E.1 of this Section;

e. the total number of acres under control of the CAFO that were used for land application of manure, litter, and process wastewater in the previous 12 months;

f. a summary of all manure, litter, and process wastewater discharges from the production area that have occurred in the previous 12 months, including date, time, and approximate volume; and

g. a statement indicating whether the current version of the CAFO's nutrient management plan was developed or approved by a certified nutrient management planner.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2554 (November 2000), LR 29:

Subchapter N. Incorporation by Reference

§2533. 40 CFR Chapter I, Subchapter N

A. 40 CFR, Chapter I, Subchapter N, Effluent Guidelines and Standards, Parts 401 and 405-471, July 1, 2002, and amendments to Part 420 in 67 FR 58997, September 19, 2002; Part 430 in 67 FR 64260-64268, October 17, 2002; and Part 412 in 68 FR 7269, February 12, 2003 are hereby incorporated by reference.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), LR 25:1467 (August 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1609 (August 2000), LR 27:2232 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), LR 29:

A public hearing will be held on July 25, 2003, at 1:30 p.m. in the Galvez Building, Room C111, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Lynn Wilbanks at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting

should reference this proposed regulation by WQ050*. Such comments must be received no later than July 25, 2003, at 4:30 p.m., and should be sent to Lynn Wilbanks, Regulation Development Section, Box 4314, Baton Rouge, LA 70821-4314 or by e-mail to lynnw@ldeq.org. The comment period for this Rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Records Management Section at (225) 765-0843. Check or money order is required in advance for each copy of WQ050*.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>. It is anticipated that the DEQ Headquarters move from 7290 Bluebonnet Boulevard to 602 N. Fifth Street, Baton Rouge, LA, will be completed by mid-July.

James H. Brent, Ph.D.
Assistant Secretary

0306#031

NOTICE OF INTENT

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Incorporation by Reference of
Amendments to 40 CFR Part 63
(LAC 33:III.5122)(AQ233*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.5122 (Log #AQ233*).

This proposed Rule is identical to federal regulations found in 68 FR 32586-32603, No. 104, May 30, 2003, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 4314, Baton Rouge, LA 70821-4314. No fiscal or economic impact will result from the proposed Rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This Rule change incorporates by reference the amendments to the General Provisions for the National Emission Standards for Hazardous Air Pollutants (NESHAP) and to the Rule that establishes criteria and procedures for equivalent emission limitations - case-by-case maximum achievable control technology (MACT) adopted in accordance with the Clean Air Act, Section 112(j). EPA changed the criteria and procedures for case-by-case MACT for sources that do not have promulgated MACT rules. Provisions of this change may be operative before the

department promulgates its annual incorporation by reference in 2004. This action is necessary to keep the state regulations consistent with the federal regulations. The basis and rationale for this Rule are to mirror the federal regulations.

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

Title 33
ENVIRONMENTAL QUALITY
PART III. Air

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

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

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

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories, published in the *Code of Federal Regulations* at 40 CFR Part 63, July 1, 2002, are hereby incorporated by reference as they apply to major sources in the state of Louisiana. Also incorporated by reference are amendments to EPA rule entitled "National Emission Standards for Hazardous Air Pollutants: General Provisions; and Requirements for Control Technology Determinations for Major Sources in Accordance With Clean Air Act Sections, Section 112(g) and 112(j)," promulgated on May 30, 2003, in the *Federal Register*, 68 FR 32586-32603.

B. - C.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), LR 25:1464 (August 1999), LR 25:1798 (October 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:690 (April 2000), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 29:

A public hearing will be held on July 25, 2003, at 1:30 p.m. in the Galvez Building, Room C111, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Lynn Wilbanks at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ233*. Such comments must be received no later than July 25, 2003, at 4:30 p.m., and should be sent to Lynn Wilbanks, Regulation Development Section, Box 4314, Baton Rouge, LA 70821-

4314 or by e-mail to lynnw@ldeq.org. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Records Management Section at (225) 765-0843. Check or money order is required in advance for each copy of AQ233*.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>. It is anticipated that the DEQ Headquarters move from 7290 Bluebonnet Boulevard to 602 N. Fifth Street, Baton Rouge, LA, will be completed by mid-July.

James H. Brent, Ph.D.
Assistant Secretary

0306#025

NOTICE OF INTENT

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

Minerals Criteria Revision for Vermilion River,
Bayou Teche, Bayou Courtableau, and
West Atchafalaya Borrow Pit Canal
(LAC 33:IX.1123)(WQ048)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Quality regulations, LAC 33:IX.1123 (Log #WQ048).

The Rule is intended to set site-specific chlorides (Cl), sulfates (SO₄), and total dissolved solids (TDS) criteria for Bayou Courtableau, West Atchafalaya Borrow Pit Canal, Bayou Teche, and the Vermilion River. Respectively, these are subsegments 060204, 060211, 060301, and two subsegments for the Vermilion River, 060801 and 060802. Designated uses will remain as listed in LAC 33:IX.1123.Table 3. General and numerical criteria not specifically excepted in LAC 33:IX.1123.Table 3 shall apply. This action is required to establish proper and protective minerals criteria for subsegments 060204, 060211, 060301, 060801, and 060802. A site-specific criteria analysis was conducted in accordance with state and federal water quality regulations, policies, and guidance to develop appropriate site-specific criteria for these water bodies. Specifically, these water bodies are largely affected by fresh water diversions from the Atchafalaya River. The water chemistry in these systems is therefore more reflective of Atchafalaya River water. This rule recognizes the influence of the diverted water.

Analyses of use attainability are conducted by the department to determine the uses and criteria an individual

water body can attain. According to the regulations, a Use Attainability Analysis (UAA) is defined as "a structured scientific assessment of the factors (chemical, physical, biological, and economic) affecting the attainment of designated uses in a water body." (See 40 CFR 131.3(g) and LAC 33:IX.1105.) The UAA process is described in 40 CFR 131.10 and LAC 33:IX.1109.B.3. It entails the methodical collection of data that is then scientifically analyzed and summarized and used to establish site-specific uses and criteria. The basis and rationale for the proposed rule are to establish site-specific Cl, SO₄, and TDS criteria for Bayou Courtableau (060204), West Atchafalaya Borrow Pit Canal (060211), Bayou Teche (060301), and Vermilion River (060801 and 060802).

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

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

A. - C.2. ...

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

- A – Primary Contact Recreation
- B – Secondary Contact Recreation
- C – Propagation of Fish and Wildlife
- L – Limited Aquatic Life and Wildlife Use
- D – Drinking Water Supply
- E – Oyster Propagation
- F – Agriculture
- G – Outstanding Natural Resource Waters

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

Table 3.									
Numerical Criteria and Designated Uses									
A - Primary Contact Recreation; B - Secondary Contact Recreation; C - Propagation of Fish and Wildlife; D - Drinking Water Supply; E - Oyster Propagation; F - Agriculture; G - Outstanding Natural Resource Waters; L - Limited Aquatic Life and Wildlife Use									
Code	Stream Description	Designated Uses	Criteria						
			CL	SO ₄	DO	pH	BAC	°C	TDS
	ATCHAFALAYA RIVER BASIN (01)								
*** [See Prior Text In 010101 – 050901]									
	VERMILION-TECHE RIVER BASIN (06)								
*** [See Prior Text In 060101 – 060203]									
060204	Bayou Courtableau - origin to West Atchafalaya Borrow Pit Canal	A B C	65	70	[22]	6.0-8.5	1	32	440
*** [See Prior Text In 060206 – 060210]									
060211	West Atchafalaya Borrow Pit Canal - from Bayou Courtableau to Henderson, La., includes Bayou Portage	A B C	65	70	5.0	6.0-8.5	1	32	440
*** [See Prior Text In 060212]									
060301	Bayou Teche – Headwaters at Bayou Courtableau to Keystone Locks and Dam	A B C	65	70	5.0	6.0-8.5	1	32	440
*** [See Prior Text In 060401 – 060703]									
060801	Vermilion River - Headwaters at Bayou Fusilier-Bourbeaux junction to New Flanders (Ambassador Caffery) Bridge, Hwy. 3073	A B C F	230	70	5.0	6.0-8.5	1	32	440
060802	Vermilion River - from New Flanders (Ambassador Caffery) Bridge, Hwy. 3073, to Intracoastal Waterway	A B C F	230	70	[6]	6.0-8.5	1	32	440
*** [See Prior Text In 060803 – 120806]									

ENDNOTES:
[1] – [22] ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:431 (April 1994), LR 20:883 (August 1994), LR 21:683 (July 1995), LR 22:1123 (November 1996), LR 24:1926 (October 1998),

amended by the Office of Environmental Assessment, Environmental Planning Division LR 25:2401 (December 1999), LR 27:289 (March 2001), LR 28:462 (March 2002), LR 28:1762 (August 2002), LR 29:

A public hearing will be held on July 25, 2003, at 1:30 p.m. in the Galvez Building, Room C111, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are

invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Lynn Wilbanks at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by WQ048. Such comments must be received no later than August 1, 2003, at 4:30 p.m., and should be sent to Lynn Wilbanks, Regulation Development Section, Box 4314, Baton Rouge, LA 70821-4314 or by e-mail to lynnw@ldeq.org. Copies of this proposed regulation can be purchased by contacting the DEQ Records Management Section at (225) 765-0843. Check or money order is required in advance for each copy of WQ048.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>. It is anticipated that the DEQ Headquarters move from 7290 Bluebonnet Boulevard to 602 N. Fifth Street, Baton Rouge, LA, will be completed by mid-July.

James H. Brent, Ph.D.
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Minerals Criteria Revision for Vermilion
River, Bayou Teche, Bayou Courtableau, and
West Atchafalaya Borrow Pit Canal**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No significant effect of this proposed rule on state or local governmental expenditures is anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No significant effect on state or local governmental revenue collections is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
No significant costs and/or economic benefits to directly affected persons or non-governmental groups are anticipated.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No significant effect on competition or employment is anticipated.

James H. Brent, Ph.D.
Assistant Secretary
0306#029

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

NRC Amendments to Radiation Protection Regulations
(LAC 33:XV.430, 440, 441, 442, 543, 544,
575, 577, 1739, 1755, 2003, 2014, 2017,
2022, 2036, 2051, and Chapter 20)(RP032*)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Radiation Protection regulations, LAC 33:XV.430, 440, 441, 442, 543, 544, 575, 577, 1739, 1755, 2003, 2014, 2017, 2022, 2036, 2051, & Chapter 20, Appendix B (Log #RP032*).

This proposed rule is identical to federal regulations found in 10 CFR 20.1701-03, 34.25, 34.43, 34.47, 34.83, 36.55, 36.81, 39.2, 39.15, 39.35, 39.41, 39.49, 39.53, 39.65, and 39.77, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 4314, Baton Rouge, LA 70821-4314. No fiscal or economic impact will result from the proposed Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rule will bring state regulations into line with existing federal Nuclear Regulatory Commission rules to preserve the state's status as an agreement state. Changes include updating some calibration, inspection, processing, and replacement intervals; changing various references to a more generic term, "personnel dosimeter"; clarifying the responsible office of the department; expanding and detailing the section on Design, Performance, and Certification Criteria for Sealed Sources Used in Downhole Operations; and adding definitions, reporting and notification provisions, safety and health factors, etc. The basis and rationale for this rule are to mirror the federal regulations.

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

Title 33

**ENVIRONMENTAL QUALITY
Part XV. Radiation Protection**

**Chapter 4. Standards for Protection Against
Radiation**

Subchapter C. Surveys and Monitoring

§430. General

A. - B. ...

C. Personnel Dosimeter Processing

1. All personnel dosimeters, except for direct and indirect reading pocket ionization chambers and those dosimeters used to measure the dose to any extremity, that

require processing to determine the radiation dose and that are used by licensees and registrants to comply with LAC 33:XV.410, with other applicable provisions of these regulations, or with conditions specified in a license or registration shall be processed and evaluated by a dosimetry processor:

- a. holding current personnel dosimetry accreditation from the National Voluntary Laboratory Accreditation Program (NVLAP) of the National Institute of Standards and Technology; and
- b. approved in this accreditation process for the type of radiation or radiations included in the NVLAP program that most closely approximates the type of radiation or radiations for which the individual wearing the dosimeter is monitored.

2. Dosimetry reports received from the processor must be recorded and maintained indefinitely or until the Office of Environmental Services, Permits Division, terminates the license.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended LR 20:653 (June 1994), LR 22:971 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

Subchapter E. Respiratory Protection and Controls to Restrict Internal Exposure in Restricted Areas

§440. Use of Process or Other Engineering Controls

A. The licensee or registrant shall use, to the extent practicable, process or other engineering controls, such as containment, decontamination, or ventilation, to control the concentrations of radioactive material in air.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

§441. Use of Other Controls

A. - A.4. ...

B. If the licensee or registrant performs an ALARA analysis to determine whether or not respirators should be used, the licensee or registrant may consider safety factors other than radiological factors. The licensee or registrant should also consider the impact of respirator use on workers' industrial health and safety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

§442. Use of Individual Respiratory Protection Equipment

A. - A.3.c. ...

d. providing atmosphere-supplying respirators with respirable air of grade D quality or better as defined by the

Compressed Gas Association in publication G-7.1, "Commodity Specification for Air," 1997, and included in the regulations of the Occupational Safety and Health Administration (29 CFR 1910.134(i)(1)(ii)(A) through (E)). Grade D quality air criteria include:

- i. oxygen content (v/v) of 19.5-23.5 percent;
- ii. hydrocarbon (condensed) content of 5 milligrams per cubic meter of air or less;
- iii. carbon monoxide (CO) content of 10 ppm or less;
- iv. carbon dioxide content of 1,000 ppm or less;

and

- v. lack of noticeable odor;
- e. fit testing, with fit factor = 10 times the APF for negative pressure devices, and a fit factor = 500 for any positive pressure, continuous flow, and pressure-demand devices, before the first field use of tight fitting, face-sealing respirators and periodically thereafter at a frequency not to exceed one year. Fit testing must be performed with the facepiece operating in the negative pressure mode;
- f. written procedures regarding selection, fitting, issuance, maintenance, and testing of respirators, including testing for operability immediately prior to each use; supervision and training of personnel; monitoring, including air sampling and bioassays; and recordkeeping; and
- g. determination by a physician prior to initial fitting of respirators, and at least every 12 months thereafter, that the individual user is physically able to use the respiratory protection equipment;

4. - 4.a. ...

b. the routine, nonroutine, and emergency use of respirators;

c. ...

d. the availability of standby rescue persons to assist all respirator users and to provide effective emergency rescue if needed; and

e. provision for the availability of standby rescue persons who:

- i. are required to be present in situations whenever one-piece atmosphere-supplying suits, or any combination of supplied air respiratory protection device and personnel protective equipment are used from which an unaided individual would have difficulty extricating himself or herself;

- ii. must be equipped with respiratory protection devices or other apparatus appropriate for the potential hazards; and

- iii. shall observe or otherwise maintain continuous communication with the workers (by visual, voice, signal line, telephone, radio, or other suitable means) and be immediately available to assist them in case of a failure of the air supply or for any other reason that requires relief from distress;

A.5. - B.1. ...

2. the licensee or registrant shall obtain authorization from the Office of Environmental Services, Permits Division, before assigning respiratory protection factors in excess of those specified in Appendix A. The department may authorize a licensee or registrant to use higher protection factors on receipt of an application that:

B.2.a. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:972 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2577 (November 2000), LR 29:

Chapter 5. Radiation Safety Requirements for Industrial Radiographic Operations

Subchapter A. Equipment Control

§543. Radiation Survey Instruments

A. ...

B. Each radiation survey instrument shall be calibrated:

1. at energies appropriate for use and at intervals not to exceed six months and after each instrument servicing;

B.2. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), LR 23:1138 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2581 (November 2000), LR 27:1233 (August 2001), LR 29:

§544. Leak Testing, Repair, Tagging, Opening, Modification, Replacement, and Records of Receipt and Transfer of Sealed Sources

A. ...

B. Each sealed source, except an energy compensation source (ECS), shall be tested for leakage at intervals not to exceed six months. In the absence of a certificate from a transferor that a test has been made within the six-month period prior to the transfer, the sealed source shall not be put into use until tested.

C. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2582 (November 2000), LR 27:1233 (August 2001), LR 29:

Subchapter B. Personal Radiation Safety Requirements for Radiographers

§575. Training and Testing

A. - C.2. ...

D. Each licensee or registrant shall conduct a program of internal audits, not to exceed every six months, to ensure that the Radiation Protection Regulations (LAC 33:XV), Louisiana radioactive material license conditions, and the licensee's or registrant's operating and emergency procedures are followed by each radiographer and radiographer trainee. Records of internal audits shall be maintained for review by the department for two consecutive years from the date of the audit. The internal audit program must include observation of the performance of each radiographer and radiographer trainee during actual industrial radiographic operations at intervals not to exceed six months. In those operations where a single individual serves as both

radiographer and RSO, and performs all radiography operations, an internal audit program is not required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), LR 20:999 (September 1994), LR 23:1138 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2583 (November 2000), LR 27:1235 (August 2001), LR 28:1951 (September 2002), LR 29:34 (January 2003), LR 29:

§577. Personnel Monitoring Control

A. No licensee or registrant shall permit an individual to act as a radiographer, instructor, or radiographer trainee unless, at all times during radiographic operations, each such individual wears, on the trunk of the body, a direct-reading pocket dosimeter, an alarm ratemeter, and a personnel dosimeter that is processed and evaluated by an accredited National Voluntary Laboratory Accreditation Program (NVLAP) processor, except that for permanent radiography facilities where other appropriate alarming or warning devices are in routine use, the wearing of an alarm ratemeter is not required.

B. Pocket dosimeters shall have a range of zero to at least 2 millisieverts (200 millirems) and shall be recharged at least daily or at the start of each shift. Electronic personal dosimeters may only be used in place of ion-chamber pocket dosimeters. Each personnel dosimeter must be assigned to and worn only by one individual. Pocket dosimeters, or electronic personal dosimeters, shall be checked for correct response to radiation at periods not to exceed one year. Acceptable dosimeters shall read within ± 20 percent of the true radiation exposure. Records of positive dosimeter response shall be maintained for three years by the licensee or registrant for department inspection.

C. Each personnel dosimeter shall be processed and evaluated by an accredited NVLAP processor and assigned to and worn by only one individual. Personnel dosimeters must be replaced at periods not to exceed one month. After replacement, each personnel dosimeter must be processed as soon as possible.

D. Direct reading dosimeters, such as electronic personal dosimeters or pocket dosimeters, shall be read and exposures recorded at least daily with use at the beginning and end of each shift, and records must be maintained for three years or until the Office of Environmental Services, Permits Division, authorizes their disposition.

E. If an individual's pocket dosimeter is discharged beyond its range (i.e., goes "off-scale"), or an individual's electronic pocket dosimeter reads greater than 2 millisieverts (200 millirems) and the possibility of radiation exposure cannot be ruled out as the cause, industrial radiographic operations by that individual shall cease and the individual's personnel dosimeter shall be sent for processing immediately. The individual shall not return to work with sources of radiation until a determination of the radiation exposure has been made. This determination must be made by the RSO or the RSO's designee. The results of this determination must be recorded and maintained indefinitely or until the Office of Environmental Services, Permits Division, authorizes their disposition.

F. Records of the pocket dosimeter readings shall be maintained for inspection by the department for three consecutive years. If the dosimeter readings were used to determine external radiation dose, the records shall be maintained indefinitely or until the Office of Environmental Services, Permits Division, authorizes their disposition.

G. If a personnel dosimeter is lost or damaged, the worker shall cease work immediately until a replacement personnel dosimeter is provided and the exposure is calculated for the time period from issuance to loss or damage of the personnel dosimeter. The results of the calculated exposure and the time period for which the personnel dosimeter was lost or damaged must be recorded and maintained indefinitely or until the Office of Environmental Services, Permits Division, authorizes their disposition.

H. - H.3. ...

4. be calibrated at periods not to exceed one year for correct response to radiation: acceptable ratemeters must alarm within ± 20 percent of the true radiation dose rate. Records of calibrations shall be maintained for three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2583 (November 2000), LR 27:1235 (August 2001), LR 28:1951 (September 2002), LR 29:35 (January 2003), LR 29:

Chapter 17. Licensing and Radiation Safety Requirements for Irradiators

§1739. Personnel Monitoring

A. Irradiator operators shall wear a personnel dosimeter while operating a panoramic irradiator or while in the area around the pool of an underwater irradiator. The personnel dosimeter processor shall be accredited by the National Voluntary Laboratory Accreditation Program for high energy photons in the normal and accident dose ranges in accordance with LAC 33:XV.430.C. Each personnel dosimeter shall be assigned to and worn by only one individual. Film badges shall be processed at least monthly, and other personnel dosimeters shall be processed at least quarterly.

B. Other individuals who enter the radiation room of a panoramic irradiator shall wear a dosimeter, which may be a pocket dosimeter. For groups of visitors, only two people who enter the radiation room are required to wear dosimeters. If pocket dosimeters are used to meet the requirements of this Subsection, a check of their response to radiation shall be done at least annually. Acceptable dosimeters shall read within ± 30 percent of the true radiation dose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 24:2118 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

§1755. Records and Retention Periods

A. - A.2. ...

3. a copy of the current operating and emergency procedures required by LAC 33:XV.1737 until superseded or the Office of Environmental Services, Permits Division, terminates the license. Records of the radiation safety officer's review and approval of changes in procedures, as required by LAC 33:XV.1737.C.3, shall be retained for three years from the date of the change;

A.4. - B. ...

1. a copy of the license, the license conditions, documents incorporated into the license by reference, and amendments thereto until superseded by new documents or until the Office of Environmental Services, Permits Division, terminates the license for documents not superseded;

2. personnel dosimeter evaluations required by LAC 33:XV.1739 until the Office of Environmental Services, Permits Division, terminates the license;

3. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 24:2120 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2604 (November 2000), LR 29:

Chapter 20. Radiation Safety Requirements for Wireline Service Operations and Subsurface Tracer Studies

§2003. Definitions

A. The following definitions apply to these terms as used in this Chapter.

Energy Compensation Source (ECS) Ca small sealed source, with an activity not exceeding 3.7 MBq (100 microcuries), used within a logging tool, or other tool components, to provide a reference standard to maintain the tool's calibration when in use.

Tritium Neutron Generator Target Source Ca tritium source used within a neutron generator tube to produce neutrons for use in well logging applications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

§2014. Leak Testing of Sealed Sources

A. ...

B. Method of Testing. Tests for leakage shall be performed only by persons specifically authorized to perform such tests by the Office of Environmental Services, Permits Division, the U.S. Nuclear Regulatory Commission, an agreement state, or a licensing state. The test sample shall be taken from the surface of the source, source holder, or from the surface of the device in which the source is stored

or mounted and on which one might expect contamination to accumulate. The test sample shall be analyzed for radioactive contamination, and the analysis shall be capable of detecting the presence of 0.005 microcurie (185 Bq) of radioactive material on the test sample.

C. Interval of Testing

1. Each sealed source of radioactive material, except an energy compensation source (ECS), shall be tested at intervals not to exceed six months. In the absence of a certificate from a transferor indicating that a test has been made prior to the transfer, the sealed source shall not be put into use until tested. If, for any reason, it is suspected that a sealed source may be leaking, it shall be removed from service immediately and tested for leakage as soon as practical.

2. Each ECS that is not exempt from testing in accordance with Subsection E of this Section must be tested at intervals not to exceed three years. In the absence of a certificate from a transferor that a test has been made within the three years before the transfer, the ECS may not be used until tested.

D. Leaking or Contaminated Source. If the test reveals the presence of 0.005 microcurie (185 Bq) or more of leakage or contamination, the licensee shall immediately withdraw the source from use and shall cause it to be decontaminated, repaired, or disposed of in accordance with these regulations. The licensee shall check the equipment associated with the leaking source for radioactive contamination and, if it is contaminated, have it decontaminated or disposed of in accordance with these regulations. A report describing the equipment involved, the test results, any contamination that resulted from the leaking source, and the corrective action taken shall be filed in writing with the Office of Environmental Compliance within five days of receiving the test results or within 30 days of discovery of a leaking or contaminated source.

E. ...

1. hydrogen-3 (tritium) sources;
2. - 4. ...
5. sources of alpha- or neutron-emitting radioactive material with an activity of 10 microcuries (0.370 MBq) or less.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2604 (November 2000), LR 29:

§2017. Design, Performance, and Certification Criteria for Sealed Sources Used in Downhole Operations

A. Each sealed source, except those containing radioactive material in gaseous form, used in downhole operations and manufactured after October 20, 1988, shall be certified by the manufacturer, or other testing organization acceptable to the Office of Environmental Services, Permits Division, to meet the following minimum criteria:

A.1. - B. ...

C. Each sealed source, except those containing radioactive material in gaseous form, used in downhole

operations after October 20, 1988, shall be certified by the manufacturer, or other testing organization acceptable to the Office of Environmental Services, Permits Division, as meeting the sealed source performance requirements for oil well-logging as contained in the American National Standard N542, "Sealed Radioactive Sources, Classification," in effect on October 20, 1987.

D. Certification documents shall be kept and maintained for inspection by the Office of Environmental Services, Permits Division, for a period of two years after source disposal. If the source is abandoned downhole, the certification documents shall be maintained until the Office of Environmental Services, Permits Division, authorizes disposition in writing.

E. Sealed Source Used in Well-Logging Applications

1. A licensee may use a sealed source in well-logging applications if the sealed source:

- a. is doubly encapsulated;
- b. contains licensed material whose chemical and physical forms are as insoluble and nondispersible as practical; and
- c. meets the following requirements:
 - i. for a sealed source manufactured on or before July 14, 1989, the requirements of USASI N5.10-1968, "Classification of Sealed Radioactive Sources," or the requirements in Subsection C or D of this Section; or
 - ii. for a sealed source manufactured after July 14, 1989, the oil well-logging requirements of ANSI/HPS N43.6-1997, "Sealed Radioactive Sources? Classification"; or
 - iii. for a sealed source manufactured after July 14, 1989, the sealed source's prototype has been tested and found to maintain its integrity after each of the following tests:

(a). Temperature. The test source must be held at -40 °C for 20 minutes, 600 °C for 1 hour, and then be subjected to a thermal shock test with a temperature drop from 600 °C to 20 °C within 15 seconds.

(b). Impact Test. A 5 kg steel hammer, 2.5 cm in diameter, must be dropped from a height of 1 m onto the test source.

(c). Vibration Test. The test source must be subjected to a vibration from 25 Hz to 500 Hz at 5 g amplitude for 30 minutes.

(d). Puncture Test. A 1 gram hammer and pin, 0.3 cm pin diameter, must be dropped from a height of 1 m onto the test source.

(e). Pressure Test. The test source must be subjected to an external pressure of 1.695×10^7 pascals (24,600 pounds per square inch absolute).

2. The requirements in Subparagraphs E.1.a-c of this Section do not apply to sealed sources that contain licensed material in gaseous form.

3. The requirements in Subparagraphs E.1.a-c of this Section do not apply to energy compensation sources (ECSs). ECSs must be registered with the Office of Environmental Services, Permits Division.

F. Energy Compensation Source. The licensee may use an energy compensation source (ECS) that is contained within a logging tool, or other tool components, only if the ECS contains quantities of licensed material not exceeding 3.7 MBq (100 microcuries).

1. For well-logging applications with a surface casing for protecting fresh water aquifers, use of the ECS is only subject to the requirements of LAC 33:XV.2014, 2015, and 2016.

2. For well-logging applications without a surface casing for protecting fresh water aquifers, use of the ECS is only subject to the requirements of Subsections E and H of this Section and LAC 33:XV.2014, 2015, 2016, and 2051.

G Tritium Neutron Generator Target Source

1. Use of a tritium neutron generator target source, containing quantities not exceeding 1,110 MBq (30 curies) and in a well with a surface casing to protect fresh water aquifers, is subject to the requirements of these regulations except Subsections E and F of this Section and LAC 33:XV.2051.

2. Use of a tritium neutron generator target source, containing quantities exceeding 1,110 MBq (30 curies) or in a well without a surface casing to protect fresh water aquifers, is subject to the requirements of these regulations except Subsections E and F of this Section.

H. Use of a Sealed Source in a Well Without a Surface Casing. The licensee may use a sealed source in a well without a surface casing for protecting fresh water aquifers only if the licensee follows a procedure for reducing the probability of the source becoming lodged in the well. The procedure must be approved by the Office of Environmental Services, Permits Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2605 (November 2000), LR 29:

Subchapter A. Requirements for Personnel Safety

§2022. Personnel Monitoring

A. No licensee or registrant shall permit any individual to act as a logging supervisor or to assist in the handling of sources of radiation unless each such individual wears a personnel dosimeter. Each personnel dosimeter shall be assigned to and worn by only one individual. Film badges must be replaced at least monthly, and other personnel dosimeters shall be processed at least quarterly. After replacement, each personnel dosimeter must be promptly processed. The processor of a personnel dosimeter shall be accredited by the National Voluntary Laboratory Accreditation Program.

B. Personnel monitoring records shall be maintained for inspection until the Office of Environmental Services, Permits Division, authorizes disposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2605 (November 2000), LR 29:

Subchapter B. Precautionary Procedures in Logging and Subsurface Tracer Operations

§2036. Uranium Sinker Bars

A. The licensee may use a uranium sinker bar in well-logging applications only if it is legibly impressed with the words "CAUTION? RADIOACTIVE DEPLETED URANIUM" AND "NOTIFY CIVIL AUTHORITIES [OR COMPANY NAME] IF FOUND."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 29:

Subchapter D. Notification

§2051. Notification of Incidents, Abandonment, and Lost Sources

A. - B.1. ...

2. notify the Office of Environmental Compliance immediately by telephone at (225)765-0160 if radioactive contamination is detected at the surface or if the source appears to be damaged and provide a follow-up written report to the office within 30 days of detection.

C. - C.3.g. ...

h. information contained on the permanent identification plaque;

i. the names of state agencies receiving a copy of this report; and

j. the immediate threat to public health and safety justification for implementing abandonment if prior Office of Environmental Compliance approval was not obtained because the licensee believed there was an immediate threat to public health and safety.

D. Whenever a sealed source containing radioactive material is abandoned downhole, the licensee shall provide a means to prevent inadvertent intrusion on the source, unless the source is not accessible to any subsequent drilling operations, and a permanent plaque (see Appendix B of this Chapter) for posting the well or well-bore. This plaque shall:

1. - 2.c. ...

d. the well name and well identification number(s) or other designation;

e. the sealed source(s) by radionuclide and quantity of activity;

f. the source depth and the depth to the top of the plug; and

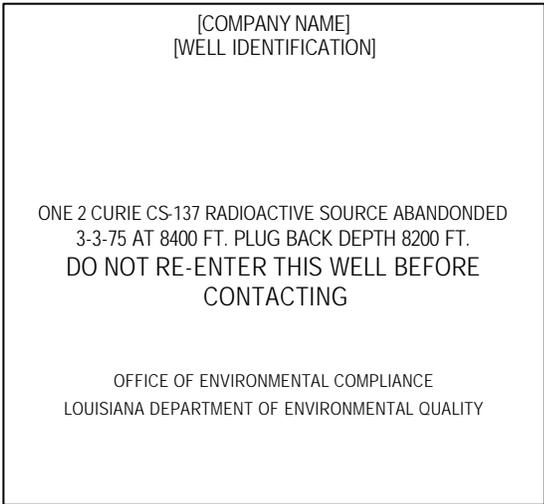
g. an appropriate warning, depending on the specific circumstances of each abandonment. Appropriate warnings may include "DO NOT DRILL BELOW PLUG BACK DEPTH"; "DO NOT ENLARGE CASING"; or "DO NOT RE-ENTER THE HOLE," followed by the words, "BEFORE CONTACTING THE OFFICE OF ENVIRONMENTAL COMPLIANCE, LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY."

E. The licensee shall notify the Office of Environmental Compliance of the theft or loss of radioactive materials, radiation overexposure, excessive levels and concentrations of radiation or radioactive materials, and certain other accidents as required by LAC 33:XV.341, 485, 486, and 487.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 21:555 (June 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2606 (November 2000), LR:29:

Appendix B
 Example of Plaque for Identifying Wells
 Containing Sealed Sources of Radioactive
 Material Abandoned Downhole



The size of the plaque should be convenient for use on active or inactive wells, e.g., a 7-inch square that is 3 mm (1/8-inch) thick. Letter size of the word "CAUTION" should be approximately twice the letter size of the rest of the information, e.g., 1/2-inch and 1/4-inch letter sizes, respectively.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2606 (November 2000), LR 29:

A public hearing will be held on July 25, 2003, at 1:30 p.m. in the Galvez Building, Room C111, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Lynn Wilbanks at the address given below or at (225) 765-0399. All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by RP032.* Such comments must be received no later than July 25, 2003, at 4:30 p.m., and should be sent to Lynn Wilbanks, Regulation Development Section, Box 4314, Baton Rouge, LA 70821-4314 or by e-mail to lynnw@ldeq.org. The comment

period for this Rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Records Management Section at (225) 765-0843. Check or money order is required in advance for each copy of RP032*.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>. It is anticipated that the DEQ Headquarters move from 7290 Bluebonnet Boulevard to 602 N. Fifth Street, Baton Rouge, LA, will be completed by mid-July.

James H. Brent, Ph.D.
 Assistant Secretary

0306#026

NOTICE OF INTENT
Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division

Radiation Protection
 (LAC 33:XV.212, 320, 545, 590, 2504, and 2506)(RP033)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Radiation Protection regulations, LAC 33:XV.212, 320, 545, 590, 2504, and 2506 (Log #RP033).

The proposed Rule adds notification requirements regarding modification of any license information, clarifies that a quarterly physical inventory is required on sealed sources and registered devices that are received or possessed under the license or registration, adds the use of collimators on xray devices, corrects the title of LAC 33:XV.212, clarifies the need to file a renewal application with payment of fees, and clarifies that the fee will also allow reciprocal recognition of a registration. The amendments will clarify requirements that are necessary to ensure the health and safety of the persons conducting work with radiation equipment and make the regulations consistent with media program needs. The basis and rationale for this proposed Rule are to protect the health and safety of those persons working in the field of radiation.

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

Title 33
ENVIRONMENTAL QUALITY
Part XV. Radiation Protection

Chapter 2. Registration of Radiation Machines and Facilities

§212. Reciprocal Recognition of Out-of-State Radiation Machines

A. - B.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2566 (November 2000), LR 29:

Chapter 3. Licensing of Radioactive Material
Subchapter B. Licenses

§320. Types of Licenses

A. Licenses for radioactive materials are of two types: general and specific.

1. General licenses provided in this Chapter are effective without the filing of application with the Office of Environmental Services, Permits Division or the issuance of licensing documents to the particular persons, although the filing of certain information with the Office of Environmental Services, Permits Division may be required by the particular general license. The general licensee is subject to all other applicable portions of these regulations and to any limitations of the general license. The licensee shall notify the Office of Environmental Services, Permits Division in writing before making any change that would render the information for license no longer accurate.

2. Specific licenses require the submission of an application to the Office of Environmental Services, Permits Division and the issuance of a licensing document by the administrative authority. The licensee is subject to all applicable portions of these regulations as well as to any limitations specified in the licensing document. The licensee shall notify the Office of Environmental Services, Permits Division in writing before making any change that would render the information contained in the application for license no longer accurate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2566 (November 2000), LR 29:

Chapter 5. Radiation Safety Requirements for Industrial Radiographic Operations

Subchapter A. Equipment Control

§545. Quarterly Inventory

A. Each licensee and registrant shall conduct a quarterly physical inventory to account for all sealed sources and licensed or registered devices received or possessed under his or her license or registration, including devices containing depleted uranium. The records of the inventories shall be maintained for inspection by the department for at

least three consecutive years from the date of the inventory and shall include the quantities and kinds of radioactive material, the location of sealed sources and/or devices, the date of the inventory, the name of individual(s) performing the inventory, the manufacturer, the model number, and the serial number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2582 (November 2000), LR 27:1233 (August 2001), LR 29:

Subchapter C. Precautionary Procedures in Radiographic Operations

§590. Specific Requirements for Radiographic Personnel Performing Industrial Radiography

A. - B. ...

C. Collimators shall be used in industrial radiographic operations that use crank-out devices and/or xray devices, except when physically impossible.

D. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:653 (June 1994), amended LR 23:1139 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2584 (November 2000), LR 27:1237 (August 2001), LR 28:1952 (September 2002), LR 29:36 (January 2003), LR 29:

Chapter 25. Fee Schedule

§2504. Application Fees

A. ...

B. Payment of the prescribed annual fee does not automatically renew the license, certificate, registration, or approval for which the fee is paid. License renewal applications must be filed in accordance with LAC 33:XV.333.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:718 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

§2506. Reciprocal Agreements C Licenses and Registrants

A. Persons operating within Louisiana under the provisions of LAC 33:XV.212 or LAC 33:XV.390 shall submit to the Office of Environmental Services, Permits Division the annual fee of the applicable category before the first entry into the state. The fee will allow reciprocal recognition of the license or registration for one year from the date of receipt.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:718 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2607 (November 2000), LR 29:

NOTICE OF INTENT

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

Site-Specific Criteria Adjustment for Bayou
Chinchuba and Tchefuncte River Wetlands
(LAC 33:IX.1123)(WQ049)

A public hearing will be held on July 25, 2003, at 1:30 p.m. in the Galvez Building, Room C111, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Lynn Wilbanks at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by RP033. Such comments must be received no later than August 1, 2003, at 4:30 p.m., and should be sent to Lynn Wilbanks, Regulation Development Section, Box 4314, Baton Rouge, LA 70821-4314 or by e-mail to lynnw@ldeq.org. Copies of this proposed regulation can be purchased by contacting the DEQ Records Management Section at (225) 765-0843. Check or money order is required in advance for each copy of RP033.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>. It is anticipated that the DEQ Headquarters move from 7290 Bluebonnet Boulevard to 602 N. Fifth Street, Baton Rouge, LA, will be completed by mid-July.

James H. Brent, Ph.D.
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Radiation Protection**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no expected implementation costs or savings to state or local governmental units by the proposed rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated effect on revenue collections of state or local governmental units by the proposed rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no estimated costs or economic benefits to directly affect persons or non-governmental groups by the proposed rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment by the proposed rule.

James H. Brent, Ph.D.
Assistant Secretary
0306#027

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Quality regulations, LAC 33:IX.1123 (Log #WQ049).

The Rule is intended to set site-specific criteria for wetlands in the Bayou Chinchuba and Tchefuncte River watersheds. The included wetlands will receive secondarily treated effluent from the City of Mandeville. This rule will result in the creation of two new subsegments: 040805 (Chinchuba Swamp Wetland) and 040806 (East Tchefuncte Marsh Wetland). Tree, shrub, and/or marsh grass productivity are determined to be the appropriate criteria. Designated uses are secondary contact recreation and fish and wildlife propagation. General and numerical criteria not specifically excepted in LAC 33:IX.1123.Table 3 shall apply. This action is required to establish protective site-specific criteria and designated uses for the affected Bayou Chinchuba and Tchefuncte River wetlands (subsegments 040805 and 040806) in Louisiana's water quality standards. A Use Attainability Analysis (UAA) was conducted in accordance with state and federal water quality regulations, policies, and guidance to develop site-specific criteria and designated uses for the wetland.

Analyses of use attainability are conducted by the department to determine the uses and criteria an individual water body can attain. According to the regulations, a UAA is defined as "a structured scientific assessment of the factors (chemical, physical, biological, and economic) affecting the attainment of designated uses in a water body." (See 40 CFR 131.3(g) and LAC 33:IX.1105.) The UAA process is described in 40 CFR 131.10 and LAC 33:IX.1109.B.3. It entails the methodical collection of data that is then scientifically analyzed and summarized and used to establish site-specific uses and criteria. The basis and rationale for the proposed rule are to establish site-specific criteria and designated uses for the affected Bayou Chinchuba and Tchefuncte River wetlands (subsegments 040805 and 040806), developed as a result of the UAA conducted for the site.

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

Title 33
ENVIRONMENTAL QUALITY
Part IX. Water Quality

Chapter 11. Surface Water Quality Standards
§1123. Numerical Criteria and Designated Uses

A. - C.2. ...

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

A – Primary Contact Recreation

B – Secondary Contact Recreation
 C – Propagation of Fish and Wildlife
 L – Limited Aquatic Life and Wildlife Use
 D – Drinking Water Supply
 E – Oyster Propagation
 F – Agriculture
 G – Outstanding Natural Resource Waters

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

Table 3.									
Numerical Criteria and Designated Uses									
A - Primary Contact Recreation; B - Secondary Contact Recreation; C - Propagation of Fish and Wildlife; D - Drinking Water Supply; E - Oyster Propagation; F - Agriculture; G - Outstanding Natural Resource Waters; L - Limited Aquatic Life and Wildlife Use									
Code	Stream Description	Designated Uses	Criteria						
			CL	SO4	DO	pH	BAC	°C	TDS
	ATCHAFALAYA RIVER BASIN (01)								
*** [See Prior Text In 010101 - 031201]									
	LAKE PONTCHARTRAIN BASIN (04)								
*** [See Prior Text In 040101 - 040804]									
040805	Chinchuba Swamp Wetland – forested wetland located 0.87 miles southwest of the City of Mandeville, southeast of the Sanctuary Ridge, and north of Lake Pontchartrain	B C	[23]	[23]	[23]	[23]	2	[23]	[23]
040806	East Tchefuncte Marsh Wetland – fresh water and brackish marsh located just west of the City of Mandeville, bounded on the south by Lake Pontchartrain, the west by the Tchefuncte River, the north by Highway 22, and the east by the Sanctuary Ridge	B C	[23]	[23]	[23]	[23]	2	[23]	[23]
*** [See Prior Text In 040901 - 120806]									

ENDNOTES:

[1] – [22] ...

[23] Designated Naturally Dystrophic Waters Segment. The following criteria apply: no more than 20 percent reduction in the total above-ground wetland productivity as measured by tree, shrub, and/or marsh grass productivity.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:431 (April 1994), LR 20:883 (August 1994), LR 21:683 (July 1995), LR 22:1123 (November 1996), LR 24:1926 (October 1998), amended by the Office of Environmental Assessment, Environmental Planning Division LR 25:2401 (December 1999), LR 27:289 (March 2001), LR 28:462 (March 2002), LR 28:1762 (August 2002), LR 29:

A public hearing will be held on July 25, 2003, at 1:30 p.m. in the Galvez Building, Room C111, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Lynn Wilbanks at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by WQ049. Such comments must be received no later than August 1, 2003, at 4:30 p.m., and should be sent to Lynn Wilbanks, Regulation

Development Section, Box 4314, Baton Rouge, LA 70821-4314 or by e-mail to lynnw@ldeq.org. Copies of this proposed regulation can be purchased by contacting the DEQ Records Management Section at (225) 765-0843. Check or money order is required in advance for each copy of WQ049.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>. It is anticipated that the DEQ Headquarters move from 7290 Bluebonnet Boulevard to 602 N. Fifth Street, Baton Rouge, LA, will be completed by mid-July.

James H. Brent, Ph.D.
 Assistant Secretary

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

**RULE TITLE: Site-Specific Criteria Adjustment for
Bayou Chinchuba and Tchefuncte River Wetlands**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No significant effect of this proposed rule on state or local governmental expenditures is anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No significant effect on state or local governmental revenue collections is anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
No significant costs and/or economic benefits to directly affected persons or non-governmental groups are anticipated.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No significant effect on competition or employment is anticipated.

James H. Brent, Ph.D.
Assistant Secretary
0306#030

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Waste Tire Fee Reporting (LAC 33:VII.10519)(SW036)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Solid Waste regulations, LAC 33:VII.10519 (Log #SW036).

The proposed Rule cleans up and clarifies existing language, including identification of classes of dealers affected by the Rule, requires the exclusive use of Form WT02, and clarifies the requirement for submittal of Form WT02 on or before the twentieth of every month, regardless of whether or not any fees have been collected. Review of the existing regulatory language revealed a possible lack of clarity regarding reporting requirements. The basis and rationale for this Rule are to clarify the existing waste tire fee reporting requirements.

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

**Title 33
ENVIRONMENTAL QUALITY
Part VII. Solid Waste
Subpart 2. Recycling**

Chapter 105. Waste Tires

§10519. Standards and Responsibilities of Generators of Waste Tires

A. - C. ...

D. Each dealer of passenger/light truck tires, medium truck tires, and off-road tires shall remit all waste tire fees collected as required by LAC 33:VII.10535.B and C to the department on a monthly basis on or before the twentieth day following the month during which the fees were collected. The fees shall be remitted to the Office of Management and Finance, Financial Services Division. Each such dealer shall also submit a Monthly Waste Tire Fee Report (Form WT02, available from the Office of Management and Finance, Financial Services Division), to the Office of Management and Finance, Financial Services Division, on or before the twentieth day of each month for the previous month's activity, including months in which no fees were collected. Each tire dealer required to make a report and remit the fee imposed by this Section shall keep and preserve records as may be necessary to readily determine the amount of fee due. Each such dealer shall maintain a complete record of the quantity of tires sold, together with tire sales invoices, purchase invoices, inventory records, and copies of each Monthly Waste Tire Fee Report for a period of no less than three years. These records shall be made available for inspection by the administrative authority at all reasonable hours.

E. - O. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:40 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2777 (December 2000), LR 27:830 (June 2001), LR 27:2227 (December 2001), LR 28:1953 (September 2002), LR 29:

A public hearing will be held on July 25, 2003, at 1:30 p.m. in the Galvez Building, Room C111, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Lynn Wilbanks at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by SW036. Such comments must be received no later than August 1, 2003, at 4:30 p.m., and should be sent to Lynn Wilbanks, Regulation Development Section, Box 4314, Baton Rouge, LA 70821-4314 or by e-mail to lynnw@ldeq.org.

Copies of this proposed regulation can be purchased by contacting the DEQ Records Management Section at (225) 765-0843. Check or money order is required in advance for each copy of SW036.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>. It is anticipated that the DEQ Headquarters move from 7290

Bluebonnet Boulevard to 602 N. Fifth Street, Baton Rouge, LA, will be completed by mid-July.

James H. Brent, Ph.D.
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Waste Tire Fee Reporting**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There are no implementation costs expected.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.
The rule should ensure more complete reporting from all affected dealers, helping to assure the proper collection of fees.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This rule merely clarifies an existing reporting requirement and will not change existing costs/benefits.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no effect on competition or employment.

James H. Brent, Ph.D.
Assistant Secretary
0306#028

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

**NOTICE OF INTENT
Office of the Governor
Division of Administration
Office of Group Benefits**

**EPO Plan of Benefits CEmployer Responsibility
(LAC 32:V.417)**

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 employer responsibility with respect to re-employed retirees in order to avoid sanctions or penalties from the United States in connection with the administration of claims for Medicare covered retirees who return to active employment.

Accordingly, OGB hereby gives notice of intent to adopt the following Rule to become effective upon promulgation.

The proposed Rule has no known impact on family formation, stability, or autonomy.

Title 32

EMPLOYEE BENEFITS

Part V. Exclusive Provider (EPO) Plan of Benefits

Chapter 4. Uniform Provisions

§417. Employer Responsibility

A. It is the responsibility of the *participant employer* to submit enrollment and change forms and all other necessary documentation on behalf of its employees to the *program*. Employees of a *participant employer* will not by virtue of furnishing any documentation to the *program* on behalf of a *plan member*, be considered agents of the *program*, and no representation made by any such person at any time will change the provisions of this *plan*.

B. A *participant employer* shall immediately inform the OGB Program whenever a retiree with OGB coverage returns to full-time employment. The employee shall be placed in the *re-employed retiree* category for premium calculation. The *re-employed retiree* premium classification applies to retirees with Medicare and without Medicare. The premium rates applicable to the *re-employed retiree* premium classification shall be identical to the premium rates applicable to the classification for *retirees* without Medicare.

C. Any participant employer that receives a Medicare Secondary Payer (MSP) collection notice or demand letter shall deliver the MSP notice to the Office of Group Benefits, MSP Adjuster, within 15 days of receipt. If timely forwarded to OGB, then OGB will assume responsibility for any medical benefits, interest, fines or penalties due to Medicare for a *covered employee*. If not timely forwarded to OGB, then OGB will assume responsibility only for *covered plan document* medical benefits due to Medicare, for a *covered employee*. The *participant employer* will be responsible for any interest, fines or penalties due.

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 25:1817 (October 1999), amended LR 29:

Interested persons may present their views, in writing, to A. Kip Wall, Chief Executive Officer, Office of Group Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Friday, July 25, 2003.

A. Kip Wall
Chief Executive Officer

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

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

It is estimated by the Program's consulting actuary, Milliman, USA, that this proposed Rule should result in a reduction of \$7,000 in FY 2003/2004 for administrative costs due to Medicare Second Payor clarifications, and a reduction of \$10,000 for FY 2004/2005 and subsequent fiscal years. It is anticipated that \$3,000 in printing costs will be incurred with the publishing of this Rule.

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

The proposed Rule will revise and amend the EPO plan document to avoid sanctions or penalties with the administration of claims for Medicare covered employees returning to employment. It is estimated by OGB's consulting actuary, Milliman, USA, that this benefit modification will result in additional revenue of \$578,000 to OGB for Fiscal Year 2003/2004, and \$746,000 in FY 2004/2005 and subsequent fiscal years.

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

This Rule change will impact those EPO members (approximately 100) that retire and maintain coverage with OGB. Those retirees that maintain coverage with OGB and return to work as an active state employee will now be mandated to keep their eligible coverage as a retiree with their original employing agency continuing to pay the state share of these benefits. These members will be required to pay rates for retirees returning to active employment which are identical to the retiree without medicare rates.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be affected.

A. Kip Wall
Chief Executive Officer
0306#044

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

PPO Plan of Benefits C Employer Responsibility
(LAC 32:III.417)

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 employer responsibility with respect to re-employed retirees in order to avoid sanctions or penalties from the United States in connection with the administration of claims for Medicare covered retirees who return to active employment.

Accordingly, OGB hereby gives notice of intent to adopt the following Rule to become effective upon promulgation.

The proposed Rule has no known impact on family formation, stability, or autonomy.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 4. Uniform Provisions

§417. Employer Responsibility

A. It is the responsibility of the *participant employer* to submit enrollment and change forms and all other necessary

documentation on behalf of its employees to the *program*. Employees of a *participant employer* will not by virtue of furnishing any documentation to the *program* on behalf of a *plan member*, be considered agents of the *program*, and no representation made by any such person at any time will change the provisions of this *plan*.

B. A participant employer shall immediately inform the OGB Program whenever a *retiree* with OGB coverage returns to full-time employment. The employee shall be placed in the *re-employed retiree* category for premium calculation. The *re-employed retiree* premium classification applies to retirees with Medicare and without Medicare. The premium rates applicable to the *re-employed retiree* premium classification shall be identical to the premium rates applicable to the classification for *retirees* without Medicare.

C. Any *participant employer* that receives a Medicare Secondary Payer (MSP) collection notice or demand letter shall deliver the MSP notice to the Office of Group Benefits, MSP Adjuster, within 15 days of receipt. If timely forwarded to OGB, then OGB will assume responsibility for any medical benefits, interest, fines or penalties due to Medicare for a *covered employee*. If not timely forwarded to OGB, then OGB will assume responsibility only for *covered plan document* medical benefits due to Medicare, for a *covered employee*. The *participant employer* will be responsible for any interest, fines or penalties due.

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 25:1837 (October 1999), amended LR 29:

Interested persons may present their views, in writing, to A. Kip Wall, Chief Executive Officer, Office of Group Benefits, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Friday, July 25, 2003.

A. Kip Wall
Chief Executive Officer

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

**RULE TITLE: PPO Plan of Benefits C Employer
Responsibility**

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

It is estimated by the Program's consulting actuary, Milliman, USA, that this proposed Rule should result in a reduction of \$7,000 in FY 2003/2004 for administrative costs due to Medicare Second Payor clarifications, and a reduction of \$10,000 for FY 2004/2005 and subsequent fiscal years. It is anticipated that \$3,000 in printing costs will be incurred with the publishing of this Rule.

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

The proposed Rule will revise and amend the PPO plan document to avoid sanctions or penalties with the administration of claims for Medicare covered employees returning to employment. It is estimated by OGB's consulting actuary, Milliman, USA, that this benefit modification will result in additional revenue of \$491,350 to OGB for Fiscal Year 2003/2004, and \$634,000 in FY 2004/2005 and subsequent fiscal years.

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

This Rule change will impact those PPO members (approximately 100) that retire and maintain coverage with OGB. Those retirees that maintain coverage with OGB and return to work as an active state employee will now be mandated to keep their eligible coverage as a retiree with their original employing agency continuing to pay the state share of these benefits. These members will be required to pay rates for retirees returning to active employment which are identical to the retiree without medicare rates.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be affected.

A. Kip Wall
Chief Executive Officer
0306#043

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Nursing**

and

**Department of Public Safety and Corrections
Office of the Secretary**

Administration of Medications to Children
in Detention Facilities (LAC 22:I.Chapter 5)

Editor's Note: Section 509 is being re-advertised as a Notice of Intent to correct an error upon submission.

The Louisiana State Board of Nursing (herein referred to as the board) and the Department of Public Safety and Corrections (herein referred to as department), pursuant to the authority vested in the board by R.S. 37:918(K), and 15:911 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., hereby promulgate Rules to provide for procedures and training that must be in place before any staff member other than any registered nurse, licensed practical nurse or licensed medical physician can be required to administer medication to children in detention facilities and shelters; to provide for definitions; to provide for the establishment of guidelines for training and the administration of medication; to provide for the rights and responsibilities of employees assigned to detention facilities relative to the administration of medication; and to provide for related matters. The Rules are set forth below.

Title 22

**CORRECTIONS, CRIMINAL JUSTICE
AND LAW ENFORCEMENT**

**Chapter 5. Administration of Medications to
Children in Detention Facilities**

**§509. Role of the Professional Staff in the
Administration of Medications**

A. Either a registered nurse with a current Louisiana license to practice in accordance with The Nurse Practice Act and the board's rules, specifically LAC 46:XLVII.3701-3703 and 3901-3915, or a physician shall be responsible for

the delegation of medication administration by trained unlicensed detention center personnel. The duties of the professional staff regarding the administration of medication, include, but are not limited to the following:

1. the development of policies and procedures regarding administration of medication in detention centers, in consultation with the detention center's director;

2. supervision of the implementation of medication administration policies to ensure the safety, health, and welfare of the juveniles in collaboration with the director and appropriate staff;

3. verification that the following conditions have been met before requiring unlicensed trained personnel to administer a medication to a juvenile:

a. that the health status of the juvenile has been assessed to determine that the administration of medication can be safely delegated;

b. only oral, pre-measured aerosols for inhalation, topical medications, and emergency medications are administered by unlicensed trained personnel;

c. child specific training has been provided;

d. except in life-threatening situations, unlicensed trained employees are not allowed to administer injectable medications;

e. controlled substances are administered only after authorization, and with additional training, supervision and documentation;

4. developing and implementing procedures for:

a. handling, storing, and disposing of medication;

b. missing (stolen) medication;

5. training unlicensed personnel to administer medications. The six hours of general training include at minimum:

a. legal role differentiation in medication delivery;

b. classification of medications and general purposes of each;

c. proper procedures for administration of medication;

d. handling, storage, and disposal of medications;

e. appropriate and correct record keeping;

f. appropriate actions when unusual circumstances occur;

g. appropriate use of resources;

6. child specific training includes at minimum:

a. desired and adverse effects of the medication;

b. recognition and response to an emergency;

c. review of the individual's medication;

d. observation of the juvenile;

e. unique individual requirements for administration of medication;

7. additional training may be required as follows:

a. handling and administering controlled substances;

b. measuring growth, taking vital signs, and other specific procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), and 15:911.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the Secretary and Department of Health and Hospitals, Board of Nursing, LR 28:1785 (August 2002), amended LR 29:

Family Impact Statement

In accordance with the Administrative Procedures Act, R.S. 49:953(A)(1)(a)(viii) and R.S. 49:972, the Louisiana State Board of Nursing and the Department of Public Safety and Corrections hereby provide the Family Impact Statement.

Adoption of these Rules by the Louisiana State Board of Nursing and the Department of Public Safety and Corrections regarding the administration of medications to children in detention facilities and shelters by staff other than registered nurses or licensed medical personnel will have no effect on the stability of the family, on the authority and rights of parents regarding the education and supervision of their children, on the functioning of the family, on family earnings and family budget, on the behavior and personal responsibility of children or on the ability of the family or a local government to perform the function as contained in the proposed Rule amendment.

All interested persons are invited to submit written comments on the proposed Rules. Such comments must be submitted no later than July 30, 2003, at 4:30 p.m., to George White, Deputy Assistant Secretary of the Office of Youth Development, Department of Public Safety and Corrections, Post Office Box 94304 Capitol Station, Baton Rouge, Louisiana 70804-9304.

Barbara Morvant, MN, RN
Executive Director
and
Richard L. Stalder
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Administration of Medications to Children in Detention Facilities

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

There are no estimated implementation costs or savings. Act 502 of the 2001 Regular Session requires training of unlicensed employees so they can administer oral and topical medications to children in detention facilities. This training will be conducted by in-house medical personnel with existing funds.

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

There are no estimated effects on revenue collections for the above stated reasons.

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

The Rule does not impose any additional costs to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition and employment.

Barbara L. Morvant
Executive Director
Robert B. Barbor
Executive Counsel
0306#024

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Nursing

Definitions (LAC 46:XLVII.3503)

Notice is hereby given, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., that the Board of Nursing (board) pursuant to the authority vested in the board by R.S. 37:918 and R.S. 37:919 intends to adopt Rules amending the Professional and Occupational Standards pertaining to definitions. The proposed amendments of the Rules are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses Subpart 2. Registered Nurses

Chapter 35. Nursing Education Programs §3503. Definitions

Appropriate Accrediting Body the regional institutional accrediting agency for institutions of higher education (degree granting) recognized by the National Advisory Committee on Institutional Quality and Integrity, United States Department of Education.

National Nursing Accrediting Body the National League for Nursing Accrediting Commission and the Commission on Collegiate Nursing Education are recognized by the board as appropriate national accrediting agencies for programs in nursing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:913 and R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:184 (April 1977), amended by the Department of Health and Hospitals, Board of Nursing, LR 17:1208 (December 1991), LR 24:1293 (July 1998), LR 26:2789 (December 2000), repromulgated LR 27:851 (June 2001), amended LR 29:

Family Impact Statement

The Louisiana State Board of Nursing hereby issues this Family Impact Statement: The proposed Rule related to the Board's appointing authority will have no known impact on family formation, stability, and autonomy, as set forth in R.S. 49:972.

Interested persons may submit written comments on the proposed Rules to Barbara L. Morvant, Executive Director, Louisiana State Board of Nursing, 3510 N. Causeway Blvd, Suite 501, Metairie, LA 70002. The deadline for receipt of all written comments is 4:30 p.m. on July 10, 2003.

Barbara L. Morvant
Executive Director

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

RULE TITLE: Definitions

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
Only implementation cost is for the publication of the Rule change in the Louisiana Register estimated to be \$45.00 in FY 03.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There is no estimated cost or economic benefit to affected persons or non-governmental groups. This proposed Rule is an addition to provide for clarification of definitions that board records support as the practice of the board.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no anticipated effect on competition and employment.

Barbara L. Morvant
Executive Director
0306#023

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Medicaid EligibilityCApplication Date

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule promulgating the *Medicaid Eligibility Manual* by reference (*Louisiana Register, Volume 22, Number 5*). The May 20, 1996 Rule was later repromulgated to correct an error in the original text of the Rule (*Louisiana Register Volume 22 Number 7*). Section G-700 of the manual defines the term "application date" as the date that any agency representative authorized by the Medicaid Program is first contacted either in person, by telephone or by written request to initiate the eligibility determination. The bureau proposes to amend the definition of the application date to improve the timely processing of Medicaid applications and to be consistent with the policy used in adjoining states.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the definition of the application date contained in Section G of the July 20, 1996 Rule as follows:

A. The application date shall be the date the signed Medicaid application is received in the local Medicaid office or in an agency representative's office.

B. The date of receipt shall be protected as the certified date of application, as determined by Subsection A above.

Family Impact Statement

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

1. The Effect on the Stability of the Family. The stability of the family will remain unchanged.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. Parental authority and rights will not be effected.

3. The Effect on the Functioning of the Family. This proposal will have no effect on family functioning.

4. The Effect on Family Earnings and Family Budget. Since we anticipate no financial impact, there will be no effect on family earnings and budgeting.

5. The Effect on the Behavior and Personal Responsibility of Children. There will be no effect on the behavior or personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. The agency and its representatives involved in the Medicaid eligibility determination process are capable of performing the function. This family will not have to make functional adjustments if the change is made.

Interested persons may submit written comments to Ben A. Bearden at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Friday, July 25, 2003 at 9:30 a.m. in the Wade O. Martin, Jr. Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time, all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

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

RULE TITLE: Medicaid EligibilityCApplication Date

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
It is anticipated that the implementation of this proposed Rule will have no programmatic fiscal impact for SFY 2003-2004, 2004-2005 and 2005-2006. It is anticipated that \$162 (\$81 SGF and \$81 FED) will be expended in SFY 2002-2003 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is anticipated that the implementation of this proposed Rule will not impact federal revenue collections.

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

Implementation of this proposed Rule will not have estimable costs and/or economic benefits for directly affected persons or non governmental groups. This proposed Rule clarifies the date of application for the purpose of determining Medicaid eligibility.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden
Director
0306#057

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Medicaid Eligibility
Temporary Assistance to Needy Families
Elimination of Work Related Sanctions

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing currently exercises an option in the State Plan under Title XIX of the Social Security Act that terminates Medicaid coverage to individuals whose cash assistance was terminated due to failure to meet Temporary Assistance to Needy Families (TANF) work requirements, with the exception of pregnant women and children.

In order to provide access to health care and to reduce financial hardship on low income families, the department proposes to eliminate the consideration of TANF work requirements in determining Medicaid eligibility.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing eliminates the consideration of Temporary Assistance to Needy Families work requirements in determining Medicaid eligibility.

Implementation of this proposed Rule is subject to approval by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule will have a positive impact on family functioning, stability, and autonomy, as described in R.S. 49:972. The proposed Rule will allow low income families to retain health care coverage under the Medicaid program.

1. The Effect on the Stability of the Family. The proposed Rule will contribute to the stability of the family by increasing the availability of health care coverage to low income families, whose financial needs were removed from the FITAP grant for failure to cooperate with the FIND Work Program.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. Parental authority and rights will not be affected.

3. The Effect on the Functioning of the Family. It will enhance the functioning of the family by allowing parent(s), whose financial needs were removed from the FITAP grant, to continue to access treatment that may lead to a healthier parent which would allow him/her to better care for other members.

4. The Effect on Family Earnings and Family Budget. The proposed Rule will result in less impact on the family budget by allowing continuation of payment for medical services for parents whose financial needs were removed from the FITAP grant.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed Rule will have no effect on the behavior and personal responsibility of the children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. The agency is capable of performing all functions relative to implementation of the Rule. The family will not have to make any adjustments.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Friday, July 25, 2003 at 9:30 a.m. in the Wade O. Martin, Jr. Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time, all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Medicaid Eligibility/TANF
Elimination of Work Related Sanctions**

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

It is anticipated that the implementation of this proposed Rule will increase state program costs by approximately \$36,923 for SFY 2003-2004, \$49,071 for SFY 2004-2005 and \$50,543 for SFY 2005-2006. It is anticipated that \$162 (\$81 SGF and \$81 FED) will be expended in SFY 2002-2003 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

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

It is anticipated that the implementation of this proposed Rule will increase federal revenue collections by approximately

\$92,812 for SFY 2003-2004, \$123,351 for SFY 2004-2005 and \$127,052 for SFY 2005-2006.

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

Implementation of this proposed Rule would eliminate the consideration of Temporary Assistance to Needy Families (TANF) work requirements in determining Medicaid eligibility. The anticipated economic benefit to directly affected persons is that sanctioned TANF recipients (approximately 93), who would have previously been ineligible, will now have access to Medicaid coverage. It is anticipated that expenditures for medical services rendered to eligible recipients would increase by \$129,735 for SFY 2003-2004, \$172,422 for SFY 2004-2005 and \$177,595 for SFY 2005-2006.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known effect on competition and employment.

Ben A. Bearden
Director
0306#058

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Gaming Control Board**

Code of Conduct of Licensees, Permittees, Casino Operator, and Casino Manager; Methods to Prevent Minors from Gaming Area; Licensees and Permittees; Age Restrictions for the Casino; Surveillance Personnel Employment Provisions; Approval of New Electronic Gaming Devices; Enforcement Actions of the Board (LAC 42:VII.2901, 2915 and 4209; IX.2901, 2935, 4103 and 4209; XIII.2901, 2915, 3304 and 4209)

The Louisiana Gaming Control Board hereby gives notice that it intends to amend LAC 42:VII.2901, 2915, 4209, IX.2901, 2935, 4103, 4209, XIII.2901, 2915, 4209 and to repeal LAC 42:XIII.3304.B 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 29. Operating Standards

§2901. Code of Conduct of Licensees and Permittees

A. - B.3. ...

4. Any person required to be found suitable or approved in connection with the granting of any license or permit shall have a continuing duty to notify the division of his/her/its arrest, summons, citation or charge for any criminal offense or violation including D.W.I.; however, minor traffic violations need not be included. All licensees and permittees shall have a continuing duty to notify the division of any fact, event, occurrence, matter or action that may affect the conduct of gaming or the business and financial arrangements incidental thereto or the ability to conduct the activities for which the licensee or permittee is licensed or permitted. Such notification shall be made within fifteen calendar days of the arrest, summons, citation, charge, fact, event, occurrence, matter or action.

B.5. - C.1.j. ...

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 26:763 (April 2000), amended LR 27:58 (January 2001), amended LR 29:

§2915. Age Restrictions for the Casino; Methods to Prevent Minors from Gaming Area

A. No persons under the age of 21 shall:

1. play or be allowed to play any game or gaming device in the designated gaming area;
2. loiter or be permitted to loiter in or about any room, premises, or designated area where any game or gaming device is located;
3. be employed as a gaming employee.

B. The Type A licensee must implement methods to prevent minors from entering the designated gaming area of the eligible facility. Such methods shall be part of the licensee's system of internal controls and shall include, but shall not be limited to the following:

1. posting signs at all entrances to the gaming area notifying patrons that persons under 21 years of age are not permitted to loiter in or about the gaming area. The signs shall be displayed in English, Spanish, and Vietnamese;
2. posting signs or other approved means displaying the date of birth of a person who is 21 years old that date.

C. Type A Licensees shall each quarter report and remit to the division all winnings withheld from customers who are determined to be under the age of 21.

D. The Type A license of any person issued pursuant to the provisions of the act, who is found by the board to have intentionally allowed a person under the age of 21 to play or operate a slot machine, shall be 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 26:764 (April 2000), amended LR 29:

**Chapter 42. Racetracks: Electronic Gaming Devices
§4209. Approval of New Electronic Gaming Devices**

A. - A.2.k.x. ...

1. Accounting Meters

i. - iii. ...

iv. The required electronic meters are as follows.

(a). ...

(b). The coin-out meter shall cumulatively count the number of coins that are paid as a result of a win, or credits that are won, or both.

iv.(c). - v. ...

vi. EGDs shall have meters which continuously display the following information relating to the current play or monetary transaction:

(a). - (b). ...

(c). the number of coins paid for a credit cash out or a direct pay from a winning outcome;

1.vi.(d). - n. ...

o. Hopper

i. If a hopper is utilized on an EGD it shall be designed to detect the following and force the EGD into a tilt condition if one of the following occurs:

(a). jammed coins;

(b). extra coins paid out;

(c). hopper runaways;

(d). hopper empty conditions.

ii. The EGD control program shall monitor the hopper mechanism, if utilized, for these error conditions in all game states in accordance with this LAC 42:XIII.Chapter 42.

iii. All coins paid from the hopper mechanism, if utilized, shall be accounted for by the EGD including those paid as extra coins during hopper malfunction.

o.iv. - kk. ...

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 26:721 (April 2000), amended LR 29:

Part IX. Landbased Casino Gaming

Subpart 1. Economic Development and Gaming Corporation

Chapter 29. Operating Standards Generally

§2901. Code of Conduct of the Casino Operator, Casino Manager, Licensees and Permittees

A. - A.3. ...

B. Unsuitable Conduct

1. - 3. ...

4. Any person required to be found suitable or approved in connection with the granting of the casino operating contract or any permit shall have a continuing duty to notify the division of his/her/its arrest, summons, citation or charge for any criminal offense or violation including D.W.I.; however, minor traffic violations need not be included. The casino operator, casino manger and any permittee shall have a continuing duty to notify the division of any fact, event, occurrence, matter or action that may affect the conduct of gaming or the business and financial arrangements incidental thereto or the ability to conduct the activities for which the casino operator, casino manager or permittee is approved or permitted. Such notification shall be made within 15 calendar days of the arrest, summons, citation, charge, fact, event, occurrence, matter or action.

B.5. - D.4. ...

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 25:1950 (October 1999), amended LR 27:59 (January 2001), amended LR 29:

§2935. Age Restrictions for the Casino; Methods to Prevent Minors from Gaming Area

A. - A.4. ...

B. The casino operator shall draft and implement policies and procedures designed to satisfy the requirements of this Section, including policies and procedures pertaining to documentation relating to proof of age and the examination of such document by a responsible casino employee or employees of security service providers and to provide suitable security to enforce the policies and procedures. These methods shall be in writing and include, but shall not be limited to:

1. posting signs at all entrances to the gaming area notifying patrons that persons under 21 years of age are not permitted to loiter in or about the gaming area. The signs shall be displayed in English, Spanish, and Vietnamese;

2. posting signs or other approved means displaying the date of birth of a person who is 21 years old that date.

C. The casino operator shall provide copies of all methods implemented in accordance with this Rule to the division and the board. The methods implemented by the casino operator are subject to the approval by the board.

D. The casino operator shall each quarter report and remit to the division all winnings withheld from customers who are determined to be under the age of 21.

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 25:1954 (October 1999), amended LR 29:

§4103. Enforcement Actions of the Board

A. - B. ...

C. Penalty Schedule

Penalty Schedule			
Section Reference	Description	Base Fine	Proscriptive Period (Months)
***	***	***	***
2935	Age Restrictions for the Casino	\$10,000	12
***	***	***	***

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 25:1974 (October 1999), amended LR 26:2307 (October 2000), LR 27:2255 (December 2001), repromulgated LR 28:344 (February 2002), amended LR 28:1029 (May 2002), LR 29:

Chapter 42. Electronic Gaming Devices

§4209. Approval of New Electronic Gaming Devices

A. - A.2.k.x. ...

1. Accounting Meters

i. - iii. ...

iv. The required electronic meters are as follows.

(a). ...

(b). The coin-out meter shall cumulatively count the number of coins that are paid as a result of a win, or credits that are won, or both.

(c) - (h). ...

(i). EGDs shall have meters which continuously display the following information relating to the current play or monetary transaction:

(i). - (ii). ...

(ii). the number of coins paid for a credit cash out or a direct pay from a winning outcome;

1.iv.(i).(iv). - n. ...

o. Hopper

i. If a hopper is utilized on an EGD it shall be designed to detect the following and force the EGD into a tilt condition if one of the following occurs:

(a). jammed coins;

(b). extra coins paid out;

(c). hopper runaways;

(d). hopper empty conditions.

ii. The EGD control program shall monitor the hopper mechanism, if utilized, for these error conditions in all game states in accordance with this LAC 42:XIII.Chapter 42.

iii. All coins paid from the hopper mechanism, if utilized, shall be accounted for by the EGD including those paid as extra coins during hopper malfunction.

o.iv. - 36.a. ...

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 26:721 (April 2000), amended LR 29:

Part XIII. Riverboat Gaming

Chapter 29. Operating Standards

§2901. Code of Conduct of Licensees and Permittees

A. - B.3. ...

4. Any person required to be found suitable or approved in connection with the granting of any license or permit shall have a continuing duty to notify the division of his/her/its arrest, summons, citation or charge for any criminal offense or violation including D.W.I.; however, minor traffic violations need not be included. All licensees and permittees shall have a continuing duty to notify the division or any fact, event, occurrence, matter or action that may affect the conduct of gaming or the business and financial arrangements incidental thereto or the ability to conduct the activities for which the licensee or permittee is licensed or permitted. Such notification shall be made within 15 calendar days of the arrest, summons, citation, charge, fact, event, occurrence, matter or action.

B.5. - C.1.j. ...

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, Riverboat Gaming Enforcement Division, LR 21:702 (July 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 27:60 (January 2001), amended LR 29:

§2915. Age Restrictions for the Casino; Methods to Prevent Minors from Gaming Area

A. No persons under the age of 21 shall:

- 1. play or be allowed to play any game or gaming device in the designated gaming area;
- 2. loiter or be permitted to loiter in or about any room, premises, or designated area where any game or gaming device is located;
- 3. be employed as a gaming employee.

B. Each licensee must implement methods to prevent minors from entering the designated gaming area of the eligible facility. Such methods shall be part of the licensee's system of internal controls and shall include, but shall not be limited to the following:

- 1. posting signs at all entrances to the gaming area notifying patrons that persons under 21 years of age are not permitted to loiter in or about the gaming area. The signs shall be displayed in English, Spanish, and Vietnamese;
- 2. posting signs or other approved means displaying the date of birth of a person who is 21 years old that date.

C. Each Licensee shall each quarter report and remit to the division all winnings withheld from customers who are determined to be under the age of 21.

AUTHORITY NOTE: Promulgated in accordance with R.S.4:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Riverboat Gaming Enforcement Division, LR 21:705 (July 1995), amended LR 29:

Chapter 33. Surveillance and Security

§3304. Surveillance Personnel Employment Provisions

A. ...

B. Repealed.

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 27:1559 (September 2001), amended LR 29:

Chapter 42. Electronic Gaming Devices

§4209. Approval of New Electronic Gaming Devices

A. - 11.j. ...

12. Accounting Meters

a. - c. ...

d. The required electronic meters are as follows.

i. ...

ii. The coin-out meter shall cumulatively count the number of coins that are paid as a result of a win, or credits that are won, or both.

d.iii. - e. ...

f. EGDs shall have meters which continuously display the following information relating to the current play or monetary transaction:

i. - ii. ...

iii. the number of coins paid for a credit cash out or a direct pay from a winning outcome;

12.f.iv - 14. ...

15. Hopper

a. If a hopper is utilized on an EGD it shall be designed to detect the following and force the EGD into a tilt condition if one of the following occurs:

- i. jammed coins;
- ii. extra coins paid out;
- iii. hopper runaways;
- iv. hopper empty conditions.

b. The EGD control program shall monitor the hopper mechanism, if utilized, for these error conditions in all game states in accordance with this LAC 42:XIII.Chapter 42.

c. All coins paid from the hopper mechanism, if utilized, shall be accounted for by the EGD including those paid as extra coins during hopper malfunction.

15.d. - 36.a. ...

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 26:721 (April 2000), amended LR 29:

Family Impact Statement

Pursuant to the provisions of R.S. 49:953.A, the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of adopting amendments to LAC 42:VII.2901, 2915, 4209, IX.2901, 2935, 4103, 4209, XIII.2901, 2915, 4209, and repealing LAC 42:XIII.3304.B.

It is accordingly concluded that adopting amendments to LAC 42:VII.2901, 2915, 4209, IX.2901, 2935, 4103, 4209,

XIII.2901, 2915, 4209, and repealing LAC 42:XIII.3304.B would appear to have a positive yet inestimable impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons may contact Tom Warner, Attorney General's Gaming Division, telephone (225) 342-2465, and may submit comments relative to these proposed Rules, through July 10, 2003, to 339 Florida Street, Suite 500, Baton Rouge, LA 70801.

Hillary Crain
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Code of Conduct of Licensees, Permittees, Casino Operator, and Casino Manager; Methods to Prevent Minors from Gaming Area; Licensees and Permittees; Age Restrictions for the Casino; Surveillance Personnel Employment Provisions; Approval of New Electronic Gaming Devices; Enforcement Actions of the Board

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No implementation costs are anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect on revenue collections is anticipated, except that expansion of penalties under LAC 42:IX.4103 for violations of IX.2935 may result in an increase in revenue, however the amount of any revenue increase cannot be estimated with any degree of certainty.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
It is not anticipated that Rules will result in economic costs or benefits to directly affected persons. Amendments to LAC 42:VII, IX, and XII.4209 may ultimately result in lower costs to licensees, however the amount of any savings cannot be estimated at this time.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effect on competition or employment is estimated. Amendments to Section 4209 will likely increase competition in the slot machine industry.

Hillary J. Crain
Chairman
0306#068

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Office of Family Support

Child Care Assistance Program (CCAP)
Conditions of Eligibility; Activity Hours; Payment
(LAC 67:III.5103 and 5109)

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 12, Child Care Assistance Program.

In March 2002, the agency adjusted the sliding fee scale for child care assistance recipients in an attempt to serve more low-income families. The agency began paying 100 percent of child care costs for those families whose earnings were well below the federal poverty level and an increased percentage for those families whose earnings were at or just below the poverty level. Additionally, the maximum income standard for program eligibility was raised.

The number of low-income participants served by the Child Care Assistance Program (CCAP) has grown rapidly since these changes were implemented in March 2002, and the cost of servicing these customers has increased proportionately. Pursuant to the authority granted to the department by the Child Care and Development Fund, and in order to implement cost-saving measures to ensure that funding is available to as many low-income families as possible, the agency will decrease the percentage of child care costs paid for by the agency and increase the number of required activity hours for parents receiving low-income child care. These measures are necessary to help reduce the current level of spending and avoid the abrupt closure of the program. The agency is also amending §5109.B.1.c.ii to change "casehead" to "head of household" and §5109.D for technical reasons only.

A Declaration of Emergency effecting these changes was signed April 1, 2003, and published in the April issue of the *Louisiana Register*.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support Subpart 12. Child Care Assistance

Chapter 51. Child Care Assistance Subchapter B. Child Care Assistance Program §5103. Conditions of Eligibility

- A. ...
- B. Low-income families not receiving FITAP cash assistance, including former FITAP recipients who are given priority consideration, must meet the following eligibility criteria.
 1. - 3. ...
 4. Effective September 1, 2002, unless disabled as established by receipt of Social Security Administration disability benefits, Supplemental Security Income, Veteran's Administration disability benefits for a disability of at least

70 percent, or unless disabled and unable to care for his/her child(ren) as verified by a doctor's statement or by worker determination, the TEMP must be:

a. employed a minimum average of 25 hours per week effective April 1, 2003, and all countable work hours must be paid at least at the Federal minimum hourly wage; or

b. attending a job training or educational program that is legally authorized by the state for a minimum average of, effective April 1, 2003, 25 hours per week (attendance at a job training or educational program must be verified, including the expected date of completion); or

c. engaged in some combination of employment which is paid at least at the Federal minimum hourly wage, or job training, or education as defined in §5103.B.4.b that averages, effective April 1, 2003, at least 25 hours per week;

d. exception: a household in which all of the members described in §5103.B.4 meet the disability criteria is not eligible for child care assistance unless one of those

members meets, effective April 1, 2003, the required minimum average of 25 activity hours per week.

B.5. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:43 (January 2003), LR 29:

§5109. Payment

A. The sliding fee scale used for non-FITAP recipients is subject to adjustment based on the state median income and poverty levels which are published annually. A non-FITAP household may pay a portion of its child care costs monthly in accordance with the sliding fee scale, and this shall be referred to as a "copayment." The sliding fee scale is based on a percentage of the state median income.

Sliding Fee Scale for Child Care Assistance Recipients 75 Percent of Projected Median Income

Number in Household	2	3	4	5	6	DSS %
Monthly Household Income	0 - 968	0 - 1219	0 - 1471	0 - 1723	0 - 1974	70%
	969 - 1535	1220 - 1908	1472 - 2281	1724 - 2654	1975 - 3027	50%
	1536 - 2101	1909 - 2596	2282 - 3090	2655 - 3585	3028 - 4079	30%
	above 2101	above 2596	above 3090	above 3585	above 4079	0%

Number in Household	7	8	9	10	11	DSS %
Monthly Household Income	0 - 2226	0 - 2478	0 - 2729	0 - 2981	0 - 3233	70%
	2227 - 3199	2479 - 3372	2730 - 3543	2982 - 3716	3234 - 3888	50%
	3200 - 4172	3373 - 4265	3544 - 4357	3717 - 4450	3889 - 4543	30%
	above 4172	above 4265	above 4357	above 4450	above 4543	0%

Number in Household	12	13	14	15	16	DSS %
Monthly Household Income	0 - 3484	0 - 3736	0 - 3988	0 - 4239	0 - 4491	70%
	3485 - 4060	3737 - 4232	3989 - 4405	4240 - 4577	4492 - 4749	50%
	4061 - 4636	4233 - 4728	4406 - 4821	4578 - 4914	4750 - 5006	30%
	above 4636	above 4728	above 4821	above 4914	above 5006	0%

Number in Household	17	18	19	20		DSS %
Monthly Household Income	0 - 4743	0 - 4994	0 - 5246	0 - 5498		70%
	4744 - 4921	4995 - 5093	5247 - 5266			50%
	4922 - 5099	5094 - 5192	5267 - 5285			30%
	above 5099	above 5192	above 5285			0%

NOTE: Effective April 1, 2003, the department's percentage of payments for low-income child care cases has been adjusted as reflected in the above tables.

B.1.a. - c.i. ...

ii. the number of hours the head of household, the head of household's spouse, or the minor unmarried parent is working and/or attending a job training or educational program each week, plus on hour per day for travel to and from such activity. For households with more than one TEMP, the hours of the TEMP with the smallest number of activity hours are used.

B.2. - C. ...

D. Payment may be made to more than one provider for the same child if the combined payment does not exceed the maximum allowable per child.

E. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2445 December 1999), LR 26:2828 (December 2000), LR 27:1933 (November 2001), LR 28:1491 (June 2002), LR 29:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? This Rule will have no effect on the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? This Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? These changes may jeopardize the safety and well being of the children as some low-income households may be unable to afford the increase in child care costs, and as a consequence, either leave the children unattended while they are at work or be forced to quit working because of lack of child care.

4. What effect will this have on family earnings and family budget? The Rule could impact the family budget, as households will be required to pay a larger percentage of child care costs.

5. What effect will this have on the behavior and personal responsibility of children? This bill will have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, this program is strictly an agency function.

Interested persons may submit written comments by July 29, 2003, to Ann S. Williamson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA 70804-9065. She is responsible for responding to inquiries regarding this proposed Rule.

A public hearing on the proposed Rule will be held on July 29, 2003, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, LA at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of

the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Gwendolyn P. Hamilton
Secretary

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

**RULE TITLE: Child Care Assistance Program
(CCAP)C Conditions of Eligibility;
Activity Hours; Payment**

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

Annual savings total \$10.1 million for FY 02/03 and \$60.7 million for FY 03/04 and continuing. Reducing the state's percentage of payment will save \$54.4 million and increasing the parents' required activity hours will save approximately \$6.3 million.

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

This Rule will have no effect on revenue collections of state or local governmental units.

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

The cost of child care for low-income households will increase as a result of these amendments because the agency's share of child care costs is being reduced from 100, 95, and 85 percent to 70, 50, and 30 percent. The difference in the agency's share will be borne by low-income households in the form of higher co-payments that is estimated to be \$102 per child. Additionally, 3,000 children in low-income child care cases had their benefits terminated as a result of the agency increasing the number of activity hours required for child care assistance eligibility from 20-25 hours per week. These households are now required to pay 100 percent of their child care costs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Rule will have no impact on competition and employment.

Ann S. Williamson
Assistant Secretary
0306#067

H. Gordon Monk
Staff Director
Legislative Fiscal Office