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EXECUTIVE ORDER MJF 01-47

School Finance Review Commission

WHEREAS, Article VIII, §13(B) of the Louisiana Constitution of 1974, as amended, provides that the State Board of Elementary and Secondary Education (hereafter "BESE"), "shall annually develop and adopt a formula which shall be used to determine the cost of a minimum foundation program of education in all public elementary and secondary schools as well as to equitably allocate the funds to parish and city school systems" and that the Louisiana Legislature "shall annually appropriate funds sufficient to fully fund the current cost to the state of such a program as determined by applying the approved formula in order to insure a minimum foundation of education in all public elementary and secondary schools" (hereafter "MFP formula");

WHEREAS, the School Finance Commission, a year and a half cooperative partnership between the Office of the Governor, Louisiana Legislature, and BESE (collectively hereafter "cooperative partnership"), was created through Executive Order No. MJF 99-41, issued on August 26, 1999, to make recommendations regarding the funding methods, the adequacy of funding, and the equitable distribution of funding, for public elementary and secondary schools; and

WHEREAS, as high quality public elementary and secondary schools are essential to the economic development and long-term economic success of the state of Louisiana, the best interests of the citizens of the state of Louisiana will be served by recreating the cooperative partnership through a commission that is charged with reviewing and reevaluating the recommendations of the School Finance Commission and annually analyzing, prioritizing, and making recommendations regarding the MFP formula and related public elementary and secondary school funding issues;

NOW THEREFORE, I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: The School Finance Review Commission (hereafter "Commission") is established within the executive department, Office of the Governor, as a partnership of the Office of the Governor, the Louisiana Legislature, and State Board of Elementary and Secondary Education (hereafter "BESE").

SECTION 2: The Commission's duties and functions shall include, but are not limited to, the following:

A. In 2001-2002, reevaluating and revising as necessary, the recommendations contained in the report of the School Finance Commission created by Executive Order No. MJF 99-41, issued on August 26, 1999, specifically regarding, but not limited to the following:

(1) the equity and adequacy of funding to parish and city school systems as per the minimum foundation program (hereafter "MFP");

(2) state appropriations to hold-harmless local school districts;

(3) the differentiation of state and local shares in each part of the MFP;

(4) teacher pay, including the establishment of a target statewide average teacher salary; and

(5) BESE's revision of a uniform statewide teacher salary schedule; thereafter, annually reevaluating and revising as necessary, the recommendations contained in the Commission's most recent annual report;

B. Annually researching, analyzing, and making recommendations regarding the funding of public elementary and secondary schools and related issues, particularly pertaining to the following matters:

(1) the equity and adequacy of state funding to parish and city school systems as per the MFP relating specifically, but not limited, to

a) the cost of educating high poverty and special education children and

b) employee health care expenses;

(2) spending priorities on the parish and city school system level related to

a) differences by categories of state level and district level spending of MFP funds among parish and city school systems,

b) the appropriateness of increasing the state's responsibility for expenditures directly related to classroom instruction and increasing the responsibility of parish and city school systems for expenditures not directly related to classroom instruction,

c) costs other than classroom expenditures incurred by parish and city school systems and the role of those costs within the MFP formula,

d) the appropriateness of using incentives via the MFP formula to encourage parish and city school system spending practices that are consistent with a state-identified expenditure model for producing the highest level of student achievement,

e) the feasibility of providing such incentives, and

f) restrictions on parish and city school systems regarding local revenue increases;

(3) linking accountability to the MFP formula regarding

a) the appropriateness of linking accountability scores, results, etc., to increases or changes in funding by expenditure category and/or in the aggregate,

b) the feasibility of creating such links while maintaining funding equity, and

c) options for creating and/or constructing such links; and

(4) teacher pay related to

a) equitable distribution of state funding,

b) salary equity among parish and city school systems,

c) differentiated hiring and personnel practices and/or student-teacher ratios, and d) specified recipients of targeted salary increases;

C. Annually compiling and prioritizing a limited list of the most relevant issues related to funding of public

elementary and secondary schools; researching and/or analyzing the issues as needed; and issuing findings and recommendations; and

D. Annually issuing revised recommendations as necessary, regarding the issues set forth in subsections 2A, 2B, and 2C, for every year in which the Commission is convened.

SECTION 3: The Commission shall submit to the governor, the president of the Senate, the speaker of the House of Representatives, and BESE an annual report by March 1, 2002, and by March 1, or a date specified by the commission, of every year hereafter, in which the Commission is convened.

SECTION 4: With the exception of the members of the Louisiana Legislature, all members of the Commission shall be appointed by the governor. All non-ex-officio members shall serve at the governor's pleasure. The Commission shall be composed of thirty-four (34) members selected as follows:

A. the governor, or the governor's designee;

B. the commissioner of administration, or the commissioner's designee;

C. five (5) members of the Senate, appointed by the president of the Senate, including the chairs of the Senate Committee on Education and Senate Committee on Finance;

D. five (5) members of the House of Representatives appointed by the speaker of the House of Representatives, including the chairs of the House Committee on Education and the House Committee on Appropriations;

E. five (5) members of BESE;

F. the superintendent of the Department of Education, or the superintendent's designee;

G. one (1) representative of the Louisiana Federation of Teachers;

H. one (1) representative of the Louisiana Association of Educators;

I. one (1) representative of the Associated Professional Educators of Louisiana;

J. six (6) representatives of school districts and/or local school boards; and

K. seven (7) representatives of business, education, and/or local communities.

SECTION 5: The governor shall appoint the chair and/or co-chairs of the Commission. All other officers, if any, shall be elected by the membership of the Commission.

SECTION 6: The Commission shall meet at regularly scheduled intervals and at the call of the chair.

SECTION 7: The Commission shall provide the opportunity for public input from legislators, BESE members, parish and city school system officials, community leaders, parents, and/or other persons not serving on the Commission.

SECTION 8: Support staff, facilities, and resources for the Commission shall be provided by the Office of the Governor, BESE, and/or other interested entities, as coordinated by the Office of the Governor.

SECTION 9:

A. Commission members shall not receive additional compensation or a per diem from the Office of the Governor for serving on the Commission.

B. Commission members who are an employee or an elected public official of the state of Louisiana or a political

subdivision of the state of Louisiana may seek reimbursement of travel expenses, in accordance with PPM 49, from their employing and/or elected department, agency, and/or office.

C. Commission members who are also a member of the Louisiana Legislature or BESE may seek a per diem from the House of Representatives, Senate, or BESE, as appropriate, for their attendance at Commission meetings and/or service on the Commission.

SECTION 10: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Commission in implementing the provisions of this Order.

SECTION 11: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 19th day of October, 2001.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0111#007

EXECUTIVE ORDER MJF 01-48

Bond Allocation Louisiana Local Government
Environmental Facilities and Community
Development Authority

WHEREAS, Executive Order No. MJF 2001-29, issued on July 31, 2001, granted a private activity bond allocation from the 2001 private activity bond volume limit to the Louisiana Local Government Environmental Facilities and Community Development Authority in accordance with the requirements of Executive Order No. MJF 96-25, as amended by Executive Order No. MJF 2000-15; and

WHEREAS, it is necessary to amend Executive Order No. MJF 2001-29 in order to extend the time period in which the bonds may be delivered to initial purchasers;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: Section 3 of Executive Order No. MJF 2001-29, issued on July 31, 2001, is hereby amended to provide as follows:

The granted allocation shall be valid and in full force and effect through the year of 2001, provided that such bonds are delivered to the initial purchasers thereof on or before December 21, 2001.

SECTION 2: All other sections of Executive Order No. MJF 2001-29 shall remain in full force and effect.

SECTION 3: The provisions of this Order are effective upon signature.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 25th day of October, 2001.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0111#018

EXECUTIVE ORDER MJF 01-49

Comprehensive Energy Policy Advisory Commission

WHEREAS, several regions of the United States of America are currently experiencing an energy shortage;

WHEREAS, several regions of the United States of America are also experiencing a shortage of electrical generating capacity;

WHEREAS, the state of Louisiana has a large supply of energy-rich natural resources;

WHEREAS, the state of Louisiana has an abundance of natural resources which are well-suited for the production of electricity and other forms of energy;

WHEREAS, many of Louisiana's natural resources are not currently being utilized as effectively as possible;

WHEREAS, much of the energy consumed in Louisiana is used directly in the extraction, refining, processing, or manufacture of large portions of the nation's energy and agricultural supplies;

WHEREAS, there have been significant advancements in energy production methods which should be explored and put into practice;

WHEREAS, the development of a comprehensive energy policy for Louisiana would help maximize the use of Louisiana's natural resources and help alleviate the national shortage of energy;

WHEREAS, the current methods of transmitting and distributing energy have evolved in a patchwork pattern over time and need to be studied and modified to function as part of a comprehensive system; and

WHEREAS, the development of such a comprehensive energy policy would be in the best interests of the people of Louisiana and the nation;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the state of Louisiana by virtue of the authority vested by the Constitution and the laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The Comprehensive Energy Policy Advisory Commission (hereafter "Commission") is established and created within the executive department, Office of the Governor.

SECTION 2: The Commission shall review existing state energy policies and shall develop recommendations for a comprehensive energy policy for the state of Louisiana. In preparing this policy, the Commission's duties shall include, but are not limited to the following:

A. review the potential to revitalize the usage of undeveloped mineral leases and abandoned wells on state property;

B. review methods by which the state could provide incentives and encourage the exploration and production of oil and natural gas on these undeveloped leases and abandoned wells;

C. review current conservation incentive programs and develop methods to improve, expand, or redesign such programs to reduce the consumption of energy by the state, its citizens, and its industry;

D. determine the feasibility of the state constructing, or encouraging the construction of electrical cogeneration facilities to increase the supply of electricity and reduce its cost;

E. determine ways to encourage the building, in appropriate locations, of private electrical generation and cogeneration plants in this state, through cogeneration of electricity and other methods;

F. determine recommendations for methods to ensure the full utilization of the capacity of the electrical power line infrastructure in this state;

G. review efforts by the federal government to implement a national energy policy and recommend ways that Louisiana can influence and participate in that plan to benefit the citizens of Louisiana and the nation;

H. review environmental issues associated with the foregoing as necessary to protect and conserve Louisiana's natural heritage;

I. cooperate with the State Water Policy Advisory Task Force, the Department of Natural Resources, the Department of Economic Development, the Public Service Commission, and all other components of the state which recommend, set, or implement state policies concerning energy production and distribution;

J. consider any other issues necessary to develop a comprehensive energy policy for Louisiana.

SECTION 3: By February 1, 2002, the Commission shall submit to the governor a report on the issues set forth in Section 2 of this Order.

SECTION 4: With the exception of the speaker of the House of Representatives and the president of the Senate, and/or their designees, all members of the Commission shall be appointed by the governor. All non-ex-officio appointees on the Commission shall serve at the pleasure of the governor. The Commission shall be composed of twenty-two (22) members selected as follows:

A. the governor, or the governor's designee;

B. the speaker of the House of Representative, or the speaker's designee;

C. the president of the Senate, or the president's designee;

D. the secretary of the Department of Natural Resources, or the secretary's designee;

E. the secretary of the Department of Economic Development, or the secretary's designee;

F. the chair of the State Mineral Board, or the chair's designee;

G. one (1) member of the Louisiana Public Service Commission, appointed by the governor;

H. one (1) member of the State Board of Commerce and Industry, appointed by the governor;

I. five (5) members with significant experience in private industry in fields relating to the extraction,

production, or distribution of energy, appointed by the governor; and

J. nine (9) at-large members, appointed by the governor.

SECTION 5: The governor shall appoint the chair of the Commission. All other officers, if any, shall be elected by the membership of the Commission.

SECTION 6: The Commission shall meet at regularly scheduled intervals and at the call of the chair.

SECTION 7: Support staff, facilities, and resources for the Commission shall be provided by the Department of Natural Resources.

SECTION 8:

A. Commission members shall not receive additional compensation or a per diem for serving on the Commission.

B. Commission members who are employees or elected public officials of the state of Louisiana may seek reimbursement of travel expenses, in accordance with PPM 49, from their employing and/or elected department, agency, and/or office.

C. Commission members who are also members of the Louisiana Legislature may seek a per diem from the House of Representatives or the Senate, as appropriate, for

their attendance at Commission meetings and/or service on the Commission.

SECTION 9: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Commission in implementing the provisions of this Order.

SECTION 10: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 25th day of October, 2001.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0111#017

Emergency Rules

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs
(LAC 28:IV.301, 503, 507, 701, 705, 803, 903,
907, 1303, 1501, 1503, 1901, 1903, 2103, and 2107)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend and re-promulgate the rules of the Scholarship/Grant programs (R.S. 17:3021-3026, R.S. 17:3041.10-3041.15, and R.S. 17:3042.1, R.S. 17:3048.1).

The emergency rules are necessary to implement changes to the Scholarship/Grant programs to allow the Louisiana Office of Student Financial Assistance and state educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. The commission has, therefore, determined that these emergency rules are necessary in order to prevent imminent financial peril to the welfare of the affected students.

This declaration of emergency is effective October 18, 2001, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28 EDUCATION

Part IV. Student Financial AssistanceC Higher Education Scholarship and Grant Programs

Chapter 3. Definitions

§301. Definitions

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

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

*Award Amount*Can amount equal to Tuition at the school attended, for those students attending a Louisiana

public college or university, as determined by the commission, which may be used by the student to pay any educational expense included in that students "Cost of Attendance." The amount paid for TOPS and TOPS-Tech Awards shall be as follows:

a. - c. ...

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

e. - g. ...

Full-Time StudentC

a. ...

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

c. - f. ...

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

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

Chapter 5. Application; Application Deadlines and Proof of Compliance

§503. Application Deadlines

A.1 - 3. ...

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

B. - E. ...

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

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

§507. Final Deadline for Submitting Documentation of Eligibility

A. ...

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

LASFAC must have in its possession all documents relevant to establishing eligibility by May 1, 2002.

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

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

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

§701. General Provisions

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

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

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

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

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

§705. Maintaining Eligibility

A.1. - 12. ...

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

C. - D. ...

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

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

Chapter 8. TOPS-TECH Award

§803. Establishing Eligibility

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

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

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

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

Core Curriculum B TOPS-TECH Award...

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

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:1898 (October 1998), amended LR 24:2237 (December 1998), LR 25:1795 (October 1999), LR 26:65, 67 (January 2000), LR 26:1602 (August 2000), LR 26:1997 (September 2000), LR

26:2269 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 28:

Chapter 9. TOPS Teacher Award

§903. Establishing Eligibility

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

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

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

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

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

§907. Maintaining Eligibility

A.1. - 6. ...

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

A.8. - B. ...

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

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

Chapter 13. Leveraging Educational Assistance Partnership (LEAP)

§1303. Establishing Eligibility

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

1. - 2. ...

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

4. - 12. ...

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

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

Chapter 19. Eligibility and Responsibilities of Postsecondary Institutions

§1901. Eligibility of Postsecondary Institutions to Participate

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

B. - D. ...

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

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

§1903. Responsibilities of Postsecondary Institutions

A. - B.1. ...

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

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

B.3. ...

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

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

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

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

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

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

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

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

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

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

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

8. Before applying a TOPS award to pay a student's tuition, institutions shall first apply the student's out-of-pocket payments, including student loans, toward tuition

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

C. - D.2. ...

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

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

1. - 3. ...

4. academic standing; and

E.5. - G ...

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

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

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

A. - B. ...

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

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

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

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

§2107. Funding and Fees

A. - A.2. ...

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

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

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

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

C. Insufficient Funds Appropriated

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

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

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

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

- i. students qualified by reduction of Foreign Language requirement for 1996-97 and 1997-98 graduates;
- ii. students qualified as Exceptional Students/Students with disabilities;
- iii. students who graduated from out-of-state high schools; and,
- iv. students who completed an Approved Home Study Program.

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

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

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

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

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

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

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

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

Mark S. Riley
Assistant Executive Director

0111#009

DECLARATION OF EMERGENCY

Tuition Trust Authority Office of Student Financial Assistance

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

The Louisiana Tuition Trust Authority (LATA) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend rules of the Student Tuition Assistance and Revenue Trust (START Saving) Program (R.S. 17:3091-3099.2).

The emergency rules are necessary to allow the Louisiana Office of Student Financial Assistance to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. The authority has, therefore, determined that these emergency rules are necessary in order to prevent imminent financial peril to the welfare of the affected students.

This declaration of emergency is effective October 18, 2001, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28

EDUCATION

Part VI. Student Financial AssistanceC Higher Education Savings

Chapter 1. General Provisions Subchapter A. Student Tuition Trust Authority §107. Applicable Definitions

* * *

*Eligible Educational Institution*C either a state college, university, or technical college or institute or an independent college or university located in this state that is accredited by the regional accrediting association, or its successor, approved by the U.S. Secretary of Education or a public or independent college or university located outside this state

that is accredited by one of the regional accrediting associations, or its successor, approved by the U.S. Secretary of Education or a Louisiana licensed proprietary school licensed pursuant to R.S. Chapter 24-A of Title 17, and any subsequent amendments thereto and is eligible to participate in a program under Title IV of the Higher Education Act of 1965 (20 U.S.C. 1088), as amended.

* * *

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

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

Chapter 3. Education Savings Account

§301. Education Savings Accounts

A. - H.2. ...

3. By signing the Owners Agreement, the Account Owner certifies that both Account Owner and Beneficiary are United States Citizens or permanent residents of the United States as defined by the U.S. Immigration and Naturalization Service (INS) and, if permanent residents have provided copies of INS documentation with the submission of the Application and Owners Agreement, and that either the Account Owner or Beneficiary is a Louisiana Resident.

H.4. - J. ...

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

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

Mark S. Riley
Assistant Executive Director

0111#010

DECLARATION OF EMERGENCY

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

Loan Brokers

Under the authority of the Louisiana Administrative Procedure Act, R.S. 49:950, et seq., and in accordance with the Louisiana Loan Brokers Act, ("LLBA"), R.S. 9:3572.1, et seq., the Commissioner of Financial Institutions hereby intends to adopt an emergency rule, which will provide and require that any person having a location in Louisiana that solicits a loan for a consumer from a third party for or in expectation of compensation shall obtain a license as a loan broker. Loans so brokered must comply with the provisions of the Louisiana Loan Broker Act, the Louisiana Consumer Credit Law, ("LCCL"), R.S. 9:3510, et seq., and the Louisiana Deferred Presentment and Small Loan Act, ("LDPSLA"), R.S. 9:3518.1 et seq.

The Office of Financial Institutions ("OFI") is statutorily charged with the licensure and supervision of all persons who obtain or offer to obtain a loan for a Louisiana citizen for personal, family or household purposes from a third party for or in expectation of compensation. In view of this

mandate, and as a result of persons located in this state obtaining and offering to obtain loans for Louisiana citizens, wherein fees, charges and other requirements of the Louisiana Consumer Credit Law and/or the Louisiana Deferred Presentment and Small Loan Act are being contracted for in excess of and are in non-compliance with the foregoing laws, it is therefore imperative for the public safety and welfare of the citizens of the state of Louisiana that these persons be licensed by the Office of Financial Institutions and be required to comply with all provisions of the LLBA, the LCCL and the LDPSLA.

I, John D. Travis, in my capacity as Commissioner of Financial Institutions for the state of Louisiana, do hereby clarify that loans to consumers which are brokered within this state must comply with all of the provisions of the LCCL or the LDPSLA and persons brokering such loans must be properly licensed under the LLBA, unless otherwise exempt by statute. Further, any person who is already licensed under one of the following programs within the jurisdiction of the Office of Financial Institutions shall be subject to suspension or revocation of that license for failure to comply with the provisions of this Declaration of Emergency:

- Louisiana Check Cashers Act CR.S. 6:1001 et seq.;
- Louisiana Sale of Checks and Money Transmission Act CR.S. 6:1031 et seq.;
- Louisiana Consumer Credit Law CR.S. 9:35 10, et seq.;
- Louisiana Credit Repair Services Organizations Act CR.S. 9:3573.1 et seq.;
- Louisiana Collection Agency Regulation Act CR.S. 9:3576.1 et seq.;
- Louisiana Deferred Presentment and Small Loan Act CR.S. 9:3578.1 et seq.;
- Louisiana Pawnshop Act CR.S. 37:1701 et seq.

Therefore, in accordance with R.S. 49:950 et seq., and the provisions of R.S. 9:3572.1 et seq., OFI hereby adopts this Declaration of Emergency on October 24, 2001. Accordingly, this emergency rule shall become effective on the commissioner's signature and shall remain effective for a maximum of 120 days, or until the final rule is promulgated, whichever occurs first.

John D. Travis
Commissioner

0111#007

DECLARATION OF EMERGENCY

**Office of the Governor
Office of Women's Services**

Microenterprise Development Program
(LAC 4:VII.1741 and 1743)

In Accordance with the Administrative Procedure Act, R.S. 49:953(B), the executive director of the Governor's Office of Women's Services (OWS) is exercising the emergency provisions of the Administrative Procedure Act in adopting the following rule for the implementation of the Microenterprise Development Program to further the goals of and the intentions of the federal Temporary Assistance to Needy Families Block Grant funds. This Emergency Rule facilitates expenditures of Temporary Assistance to Needy

Families (TANF) funds as authorized by Act 12 of the 2001 Regular Session of the Louisiana Legislature for the support of microenterprise development, in accordance with federal and state regulations (45 CFR Part 260 et al and LAC 67:III.Subpart 15). The Emergency Rule will remain in effect for a period of 120 days, effective on October 12, 2001.

The agency has, therefore, determined that this Emergency Rule providing for immediate implementation of the OWS Microenterprise Development Program is essential to alleviate the imminent peril to the welfare of potential program recipients as they strive to end their dependency upon public assistance.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 17. Women's Services

§1741. General Provisions

A. The OWS Microenterprise Program will help families achieve self-sufficiency through the development of comprehensive microenterprise development opportunities as a strategy for moving parents on public assistance into self-employment and work thereby breaking the cycle of dependence on public assistance and moving families out of poverty. A microenterprise is a sole proprietorship, partnership or family business which has fewer than five employees. It is small enough to benefit from loans under \$25,000 and generally too small to access commercial banking sector.

B. OWS will collaborate with DED in the implementation of this program according to mutually agreed upon terms. OWS's program design will encourage collaboration and partnerships between Community-Based Organization (CBOs), Community Development Corporations (CDCs), Small Business Development Centers (SBDCs) and other institutions as a vehicle for efficiency, reducing costs, and providing high quality, comprehensive services.

AUTHORITY NOTE: Promulgated in accordance with Act 12 of the 2001 Special Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 28:

§1743. Eligibility and Verification

A. Eligibility will be determined by verifying eligibility for Family Independence Temporary Assistance Program (FITAP), Kinship Care Subsidy Program (KCSP), food stamps, Child Care Assistance Program (CCAP), Medicaid, Louisiana Children's Health Insurance Program (LaChip,) Supplemental Security Income (SSI) or Free or Reduced School Lunch. If a family does not meet the definition of need, but appears to be eligible for one of the qualifying programs, the family should be referred to the appropriate agency. Upon being determined eligible for one of the qualifying programs, the family meets the definition of needy. Verification includes but is not limited to: Notices of Eligibility (as detailed in the following examples and provided to practitioner agency by the program participant), a copy of current SSI check, a documented phone call to certifying agency, written documentation from certifying agency, and electronic data exchange, if available.

B. Eligibility can also be determined by verifying that earned income levels fall at or below 200 percent of the federal poverty level. Contractors can use the TANF-EZ

form to record information for eligibility determination. Examples of documented verification can include, but are not limited to: Notice of eligibility for FITAP, KCSP, Food Stamps, CCAP, Medicaid, LaChip, SSI or Free or Reduced School Lunch or most recent employment pay stub that verifies income, letter from employer stating wages, letter of termination from employment, or copy of most recent tax return. Verification documentation must be provided within 3 days of application of services. Sub-Contractors shall be responsible for determining the TANF eligibility.

C. Documentation of each eligibility determination (approval or denial) must be maintained by and made available in accordance with Section VIII.B.3. Once eligibility is established, it is valid for a period of one year. However, funding of services will not extend past September 30, 2002.

AUTHORITY NOTE: Promulgated in accordance with Act 12 of the 2001 Special Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Women's Services, LR 28:

Vera Clay
Executive Director

0111#002

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of Public Health

Reportable Diseases

Under the authority of R.S. 40:5 and in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health has invoked emergency rulemaking provisions and is amending Chapter II of the Louisiana Sanitary Code as related to reportable diseases.

The threat of new or re-emerging infectious diseases/conditions, as well as, the potential for bioterrorist events, necessitates the addition of several diseases/conditions to the list of reportable diseases/conditions and changes in the time periods for reporting specific diseases/conditions (Section 2:003). The revised list of reportable diseases provides for the addition of the following diseases/conditions: Anthrax, Aseptic meningitis, Brucellosis, Cryptococcosis, Cyclosporiasis, Dengue, EHEC serogroup non 0157, EHEC + shiga toxin not serogrouped, Giardia, Hantavirus Pulmonary Syndrome, Hansen Disease (leprosy), Listeria, Plague, Psittacosis, Streptococcal pneumoniae (invasive in children <5 years of age), Tularemia, Smallpox and Viral Hemorrhagic fever. This action has become necessary as a result of the recognition of new and re-emerging diseases of public health importance and/or those that may be associated with bioterrorist events. In addition, three diseases were removed from the reportable list for which reports have been rare or sporadic: Amebiasis, Meningitis, other bacterial, fungal and Mycobacteriosis, atypical. The need to categorize the reportable disease/condition list according to time periods for reporting will allow for more timely and efficient public health responses for which active intervention and

prevention can be instituted to protect the health of the citizens of Louisiana.

The following emergency rule provisions are effective October 26, 2001, and shall remain in effect for the maximum period as allowed under the Administrative Procedure Act or until adoption of the final rule, whichever comes first.

**Sanitary Code
State of Louisiana**

Chapter II. The Control of Disease

2:003 The following diseases or conditions are hereby declared reportable with reporting requirements by Class:

A. Class A Diseases or Conditions Which Shall Require Reporting Within 24 Hours. This class includes diseases of major public health concern because of the severity of disease and potential for epidemic spread. Class A diseases or conditions shall be reported to the Office of Public Health by telephone immediately upon recognition that a case, a suspected case, or a positive laboratory result is known. In addition, all cases of rare or exotic communicable diseases, unexplained death, unusual clusters of disease and all outbreaks shall also be reported.

The following diseases or conditions shall be classified as Class A for reporting requirements:

- Anthrax
- Botulism
- Brucellosis
- Cholera
- Diphtheria
- Haemophilus influenzae (invasive infection)
- Measles (rubeola)
- Neisseria meningitidis (invasive infection)
- Plague
- Rabies (animal and man)
- Rubella (congenital syndrome)
- Rubella (German measles)
- Smallpox
- Tularemia
- Viral Hemorrhagic Fever

B. Class B Diseases or Conditions Which Shall Require Reporting Within One Business Day. This class includes diseases of public health concern needing timely response because of potential for epidemic spread. The following Class B diseases shall be reported to the Office of Public Health by the end of the next business day after the existence of a case, a suspected case, or a positive laboratory result is known.

- Arthropod-borne encephalitis
- Aseptic meningitis
- Chancroid¹
- E. Coli 0157:H7
- Hantavirus Pulmonary Syndrome
- Hemolytic-Uremic Syndrome
- Hepatitis A (acute illness)
- Hepatitis B (carriage in pregnancy)
- Herpes (neonatal)
- Legionellosis
- Malaria
- Mumps

- Pertussis
- Salmonellosis
- Shigellosis
- Syphilis¹
- Tetanus
- Tuberculosis²
- Typhoid Fever

C. Class C Diseases or Conditions Which Shall Require Reporting Within Five Business Days. This class shall include the diseases of significant public health concern. The following diseases shall be reported to the Office of Public Health by the end of the workweek after the existence of a case, suspected case, or a positive laboratory result is known.

- Acquired Immune Deficiency Syndrome (AIDS)
- Blastomycosis
- Campylobacteriosis
- Chlamydial infection¹
- Cryptococcosis
- Cryptosporidiosis
- Cyclosporiasis
- Dengue
- EHEC serogroup non 0157
- EHEC + shiga toxin not serogrouped
- Enterococcus -Vancomycin Resistant; (VRE)
- Giardia
- Gonorrhea¹
- Hansen Disease (leprosy)
- Hepatitis B (acute)
- Hepatitis C (acute)
- Human Immunodeficiency Virus (HIV)
- Listeria
- Lyme Disease
- Lymphogranuloma venereum¹
- Psittacosis
- Rocky Mountain Spotted Fever (RMSF)
- Staphylococcus aureus, Methicillin/Oxacillin or vancomycin resistant (MRSA)
- Streptococcus pneumoniae
[invasive infection;penicillin, resistant (DRSP)]
- Streptococcus pneumoniae (invasive infection in children <5 years of age)
- Varicella (chickenpox)
- Vibrio infections (other than cholera)

D. Other Reportable Conditions

- Cancer
- Complications of abortion
- Congenital hypothyroidism*
- Galactosemia*
- Hemophilia*
- Lead Poisoning
- Phenylketonuria*
- Reye's Syndrome
- Severe traumatic head injury**
- Severe under nutrition
(severe anemia, failure to thrive)

Sickle cell disease (newborns)*
Spinal cord injury**
Sudden infant death syndrome (SIDS)

Case reports not requiring special reporting instructions (see below) can be reported by Confidential Disease Case Report forms (2430), facsimile, phone reports, or electronic transmission.

¹Report on STD-43 form. Report cases of syphilis with active lesions by telephone.

²Report on CDC72.5 (f.5.2431) card.

*Report to the Louisiana Genetic Diseases Program Office by telephone.

**Report on DDP-3 form; preliminary phone report from ER is encouraged.

Information contained in reports required under this section shall remain confidential in accordance with the law.

David W. Hood
Secretary

0111#020

DECLARATION OF EMERGENCY

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

Disproportionate Share Hospital Payment Methodologies

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953.B(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule May 20, 1999 governing the disproportionate share payment methodologies for hospitals (*Louisiana Register*, Volume 25, Number 5). This Rule was adopted pursuant to Act 19 of the 1998 Legislative Session and Act 1485 (the Rural Hospital Preservation Act) of the 1997 Legislative Session. The May 20, 1999 Rule was subsequently amended to revise the disproportionate share qualification criteria for small rural hospitals in compliance with Senate Concurrent Resolution Number 48 and Act 1068 of the 1999 Regular Session of the Louisiana Legislature (*Louisiana Register*, Volume 26, Number 3).

The Bureau subsequently adopted a rule to establish an additional disproportionate share hospital group, for state fiscal year 2001 only, composed of large public non-state hospitals in order to facilitate the transfers of public funds from qualifying health care providers as directed in Act 11 of the 2000 Second Extraordinary Session of the Louisiana Legislature (*Louisiana Register*, Volume 27, Number 2).

Act 1074 of the 2001 Regular Session of the Louisiana Legislature amended the Rural Hospital Preservation Act to add certain hospitals to the definition of rural hospitals. In compliance with Act 1074, the Bureau has determined that it is necessary to amend the March 20, 2000 Rule to revise the

disproportionate share qualification criteria for small rural hospitals.

Qualification for disproportionate share is based on the hospital's latest year end cost report for the year ended during the specified period of the previous year. Payment is equal to each qualifying hospital's pro rata share of the uncompensated cost for all hospitals meeting these criteria for the cost reporting period ended during the specified period of the preceding year multiplied by the amount set for each pool. The specified cost reporting period for all hospitals except small rural hospitals is July 1 through June 30 of the previous year. The specified cost reporting period for small rural hospitals is April 1 through March 31 of the previous year. As a result of Medicare amending its reimbursement methodology for hospitals and granting extensions on the submission dates for hospital cost reports, the bureau amended the provisions governing cost reporting periods for qualification and calculation of payments for disproportionate share. This emergency rule is being adopted to continue the provisions contained in the August 8, 2001 rule.

Emergency Rule

Effective for dates of service on or after December 7, 2001, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amends the provisions governing the disproportionate share payment methodologies for hospitals by incorporating the following revisions.

I. General Provisions

A. - C. ...

D. DSH payments to a hospital determined under any of the methodologies below shall not exceed the hospital's net uncompensated cost as defined in Section I.G for the state fiscal year to which the payment is applicable.

E. Qualification is based on the hospital's latest filed cost report. Hospitals must file cost reports in accordance with Medicare deadlines, including extensions. Hospitals that fail to timely file Medicare cost reports will be assumed to be ineligible for disproportionate share payments. Only hospitals that return timely disproportionate share qualification documentation will be considered for disproportionate share payments. For hospitals with distinct part psychiatric units, qualification is based on the entire hospital's utilization.

F. - I. ...

III. Reimbursement Methodologies

B. Small Rural Hospitals

1. A small rural hospital is a hospital (excluding a long-term care hospital, rehabilitation hospital or free-standing psychiatric hospital, but including distinct part psychiatric units) that meets the following criteria:

a. had no more than 60 hospital beds as of July 1, 1994 and is located in a parish with a population of less than 50,000 or in a municipality with a population of less than 20,000; or

b. meets the qualifications of a sole community hospital under 42 CFR §412.92(a); or

c. had no more than 60 hospital beds as of July 1, 1999 and is located in a parish with a population of less than 17,000 as measured by the 1990 census; or

d. had no more than 60 hospital beds as of July 1, 1997 and is a publicly owned and operated hospital that is

located in either a parish with a population of less than 50,000 or a municipality with a population of less than 20,000; or

e. had no more than 60 hospital beds as of June 30, 2000 and is located in a municipality with a population, as measured by the 1990 census, of less than 20,000; or

f. had no more than 60 beds as of July 1, 1997 and is located in a parish with a population, as measured by the 1990 and 2000 census, of less than 50,000; or

g. was a hospital facility licensed by the Department that had no more than 60 hospital beds as of July 1, 1994, which hospital facility has been in continuous operation since July 1, 1994, is currently operating under a license issued by the department, and is located in a parish with a population, as measured by the 1990 census, of less than 50,000.

2. ...

3. Payment is equal to each qualifying rural hospital's pro rata share of uncompensated cost for all hospitals meeting these criteria for the latest filed cost report multiplied by the amount set for each pool. If the cost reporting period is not a full period (12 months), actual uncompensated cost data from the previous cost reporting period may be used on a pro rata basis to equate a full year.

4. ...

C. Large Public Non-State Hospitals

1. A large public non state hospital is defined as any hospital owned by a parish, city or other local government agency or instrumentality; and not included in section III. A or B of the May 20, 1999 rule. A qualifying hospital may be a long term hospital.

2. Qualifying hospitals must meet the qualifying criteria contained in section II.E and either section II. A, B, or C of the May 20, 1999 rule. Qualifying hospitals must maintain a log documenting the hospital's provision of uninsured care as directed by the department. Issuance of the disproportionate share payment is contingent on the public non state hospital certifying public funds as representing expenditures eligible for FFP in compliance with Act 12 of the 2001 Regular Session of the Louisiana Legislature.

3. Disproportionate share payments to each qualifying public non state hospital are equal to that hospital's pro rata share of uncompensated costs for all hospitals meeting these criteria for the latest filed cost report multiplied by the amount set for this pool. Payment shall not exceed each qualifying hospital's actual uncompensated costs as defined in section I.G of the May 20, 1999 rule. If the cost reporting period is not a full period (12 months), actual uncompensated cost data for the previous cost reporting period may be used on a pro rata basis to equate to a full year.

D. All Other Hospitals (private rural and urban hospitals, free-standing psychiatric hospitals exclusive of state hospitals, rehabilitation hospitals and long-term care hospitals)

1. - 2.c. ...

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

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box

91030, Baton Rouge, Louisiana 70821-9030. He is responsible for responding to inquiries regarding this emergency rule. A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0111#081

DECLARATION OF EMERGENCY

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

Durable Medical Equipment Program Vagus Nerve Stimulators

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by LA. R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, provides coverage for durable medical equipment and supplies under the Medicaid Program. All medical equipment, appliances and supplies must be prior authorized to determine medical necessity. Currently, vagus nerve stimulators (VNS), implantable devices used to assist in the control of seizures related to epilepsy are not covered under the Medicaid Program. In concurrence with the recommendations of the Medical Practices Committee, the bureau proposes to extend Medicaid coverage under the Durable Medical Equipment Program to include vagus nerve stimulators. Reimbursement for this medical device will be subject to review for medical necessity and prior authorization.

This action is being taken in order to protect the health and well being of Medicaid recipients who have epilepsy related seizures and may benefit from use of this medical device. It is estimated that the implementation of this emergency rule will increase expenditures in the Durable Medical Equipment Program by approximately \$215,833 for state fiscal year 2001-2002.

Emergency Rule

Effective December 1 2001, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing expands coverage under the Durable Medical Equipment Program to include vagus nerve stimulators (VNS) and adopts the following criteria for prior authorization of this medical device. The VNS is an implantable device used to assist in the control of seizures related to epilepsy and must be prescribed by a physician.

A. Inclusion Criteria. Consideration shall be given for Medicaid reimbursement for implantation of the VNS if the treatment is considered medically necessary, the patient has medically intractable epilepsy and meets one or more of the following criteria:

1. is 12 years of age or older, although case by case consideration may be given to younger children who meet all other criteria and have sufficient body mass to support the implanted system; or

2. has a diagnosis of partial epilepsy confirmed and classified according to the International League Against Epilepsy classification. The patient may also have associated generalized seizures, such as tonic, tonic-tonic, or atonic. The VNS may have efficacy in primary generalized epilepsy as well. Video electroencephalographic monitoring is usually necessary for confirmation and classification of seizure type; or

3. has seizures that resist control by antiepilepsy treatment, with adequately documented trails of appropriate antiepilepsy drugs or documentation of the patient's inability to tolerate these medications; or

4. has undergone surgical evaluation and is not considered to be an optimal candidate for epilepsy surgery; or

5. is experiencing at least four to six identifiable partial onset seizures each month. The patient must have had a diagnosis of intractable epilepsy for at least two years. The two year period may be waived if it is deemed that waiting would be harmful to the patient; or

6. has undergone Quality of Life measurements (QOL). The choice of instruments used for the QOL must assess quantifiable measures of day to day life in addition to the occurrence of seizures. In the expert opinion of the treating physician, and clearly documented in the request for prior authorization, there must be reason to believe that QOL will improve as a result of the VNS. This improvement should be in addition to the benefit of seizure frequency reduction; or

7. has progressive disorders, psychosis, or mental retardation that are not contraindications to VNS implantation. Taking into consideration the additional diagnosis, the treating physician must document the benefits of VNS.

B. Exclusion Criteria. Medicaid reimbursement for implantation of a VNS shall not be made if the patient meets one or more of the following criteria:

1. has psychogenic seizures or other nonepileptic seizures; or

2. has systemic or localized infections that could infect the implanted system; or

3. the patient's body mass is insufficient to support the implanted system.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this emergency rule. A copy of this emergency rule is available at the parish Medicaid office for review by interested parties.

David W. Hood
Secretary

0111#080

DECLARATION OF EMERGENCY

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

Facility Need Review Emergency
Community Home Bed Pool
(LAC 48:I.12501-12505)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule for Facility Need Review as authorized by R.S. 40:2116. This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953(B) and shall be in effect for the maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals adopted a rule governing the Facility Need Review process in August 1995 (*Louisiana Register*, Volume 21, Number 8). The August 1995 rule was amended to adopt new provisions governing the relocation of nursing facility beds (*Louisiana Register*, Volume 25, Number 7).

The Department amended the August 1995 rule governing the Facility Need Review process in order to implement provisions of the 2001 Appropriations Bill, Act 12 of the 2001 Regular Session. The Act provides that the Department of Health and Hospitals is authorized to transfer 50 beds currently licensed to state developmental centers to non-state operated community homes for the mentally retarded in accordance with a plan to be developed by the Department. The Department intends to use those 50 beds to address emergency situations which cannot be dealt with adequately through the normal request for proposals process because of the significant delay in placement which is inherent in that process. Therefore, the Department exercised its emergency rule making authority and amended its rules on Facility Need Review to include a plan whereby 50 beds were used to create a pool of beds which are available for transfer to non-state operated community homes. This emergency rule is being adopted to continue the provisions contained in the August 1, 2001 rule.

Emergency Rule

Effective November 30, 2001, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amends the August 20, 1995 rule on Facility Need Review to include a plan whereby 50 beds will be used to create a pool of beds which will be available for transfer to non-state operated community homes.

Title 48

PUBLIC HEALTH GENERAL

Part I. General Administration

Subpart 5. Health Planning

Chapter 125. Facility Need Review

§12501. Introduction

- A. ...
- B. Definitions

*Emergency Community Home Bed Pool*Ca pool consisting of 50 approved beds which have been transferred from state developmental centers and which are made available for transfer to non-state operated community homes in order to address emergency situations on a case-by-case basis.

C. - F.6. ...

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

F.8. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:808 (August 1995), amended LR 25:1250 (July 1999), amended LR 28:

§12503. Determination of Bed Need

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

7. Emergency Community Home Bed Pool Exception:

a. The Emergency Community Home Bed Pool is hereby created, consisting of 50 Medicaid enrolled beds transferred from state developmental centers.

b. The beds in the Emergency Community Home Bed Pool shall be available for transfer to non-state operated community homes in order to address emergency situations on a case-by-case basis.

c. Emergency situations which may be addressed through the use of the Emergency Community Home Bed Pool shall include, but not be limited to, situations in which it is difficult or impossible to find a placement for an individual in an ICF/MR because of one of the following:

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

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

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

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

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

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

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

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

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

f. The secretary shall authorize the transfer of the bed to be used at the non-state operated community home, and upon the enrollment of the transferred bed at that community home, it shall be permanently transferred to that facility, subject to the following conditions: Once the bed is no longer needed to remedy the emergency situation, the facility shall continue to make it available for subsequent emergency placements, although it may be used temporarily to serve other individuals until it is needed for a new emergency placement. The facility shall make the bed available for a new emergency placement within 72 hours after receiving a request for such placement from the Department as set forth herein. If the facility does not comply with such a request, the Secretary may, at his discretion, transfer the bed from the facility back to the Emergency Community Home Bed Pool.

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

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

B. - B.11. ...

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

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

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this emergency rule. A copy of this emergency rule is available at the parish Medicaid office for review by interested parties.

David W. Hood
Secretary

0111#082

DECLARATION OF EMERGENCY

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

Medicaid Pharmacy Program Average Wholesale Price

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953.B(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule in April, 1990, amending the reimbursement methodology for drugs under the Louisiana Medicaid Pharmacy Program (*Louisiana Register*, Volume 16, Number 4). In compliance with Act 10 of the 1999 Regular Session of the Louisiana Legislature, the Bureau amended the April 20, 1990 Rule to limit payments for prescription drugs to the lower of:

- 1) average wholesale price (AWP) minus 10.5 percent for independent pharmacies and 13.5 percent for chain pharmacies;
- 2) Louisiana's maximum allowable cost (MAC) limitation plus the maximum allowable overhead cost (MAOC);
- 3) federal upper limits plus the; or
- 4) provider's usual and customary charges to the general public. In addition, the definition of chain pharmacies was established as five or more Medicaid enrolled pharmacies under common ownership (*Louisiana Register*, Volume 26, Number 6).

As a result of a budgetary shortfall, the Bureau adopted a rule amending the June 20, 2000 rule to limit payments for prescription drugs to the lower of (AWP) minus 15 percent for independent pharmacies and 16.5 percent for chain pharmacies. In addition, the definition of chain pharmacies was changed from five or more to more than 15 Medicaid-enrolled pharmacies under common ownership (*Louisiana Register*, Volume 26, Number 8). As a result of the allocation of funds by the Legislature during the 2001 Regular Session, the Bureau increased the reimbursement rate for prescription drugs under the Medicaid Pharmacy Program by amending the estimated acquisition cost formula from (AWP) minus 15 percent to 9(AWP) minus 13.5 percent for independent pharmacies and from (AWP) minus 16.5 percent to (AWP) minus 15 percent for chain pharmacies. This emergency rule is being adopted to continue the provisions contained in the August 6, 2001 rule.

Emergency Rule

Effective for dates of services on or after December 5, 2001, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement rate for prescription drugs under the Medicaid Pharmacy Program by amending the estimated acquisition cost formula from average wholesale price

(AWP) minus 15 percent to AWP minus 13.5 percent for independent pharmacies and from AWP minus 16.5 percent to AWP minus 15 percent for chain pharmacies. This adjustment applies to single source drugs, multiple source drugs that do not have a state maximum allowable cost (MAC) or federal upper limit and those prescriptions subject to (MAC) overrides based on the physician's certification that a brand name product is medically necessary.

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

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this emergency rule. A copy of this emergency rule is available at the parish Medicaid office for review by interested parties.

David W. Hood
Secretary

0111#083

DECLARATION OF EMERGENCY

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

Public Hospitals CReimbursement Methodology CUpper Payment Limit

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:953.B(1) et seq. and shall be in effect for the maximum period allowed under the Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule in June of 1994 which established a prospective reimbursement methodology for inpatient services provided in non-state operated acute care hospitals (*Louisiana Register*, Volume 20, Number 6). The reimbursement methodology was subsequently amended in a rule adopted in January of 1996 which established a weighted average per diem for each hospital peer group (*Louisiana Register*, Volume 22, Number 1). The January 1996 rule was later amended to discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates in those years when the rates are not rebased (*Louisiana Register*, Volume 25, Number 5).

In compliance with Act 11 of the 2000 Second Extraordinary Session of the Louisiana Legislature, an emergency rule was adopted to establish supplemental payments to non-state public hospitals, which are not recognized by the Department as small rural hospitals, for unreimbursed Medicaid costs incurred in providing care to Medicaid recipients (*Louisiana Register*, Volume 26, Number 12). Issuance of the supplemental payment is

contingent on the public hospital entering into a cooperative endeavor agreement with the Department to certify public funds as representing expenditures eligible for federal financial participation (FFP).

The Bureau utilized the revised upper payment limit for non-state government-owned or operated hospitals as set forth in the 42 CFR §447.272(c) and §447.321(c). 42 CFR §447.272(c) and §447.321(c) states as follows: "Exceptions, (1) Non-State government-operated hospitals. The aggregate Medicaid payments may not exceed a reasonable estimate of the amount that would be paid for the services furnished by these hospitals under Medicare payment principles in subchapter B of this chapter." This emergency rule is being adopted to continue the provisions contained in the April 1, 2001 rule.

Emergency Rule

Effective November 29, 2001 the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, will utilize the revised upper payment limit for non-state government-owned or operated hospitals as set forth in the 42 CFR §447.272(c) and §447.321(c). The hospital payment differential for any year shall be the difference between the upper limit of aggregate payments to non-state government-owned or operated hospitals, as defined in the 42 CFR §447.272(c) and §447.321(c), and the aggregate Medicaid per diem reimbursement paid to these hospitals for the year.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this emergency rule. A copy of this emergency rule is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0111#084

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Food Stamp ProgramC Semi-Annual Households (LAC 67:III.2013)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953.B to adopt changes to LAC 67:III, Subpart 3, effective December 5, 2001. This rule shall remain in effect for a period of 120 days. This declaration is necessary to extend the original emergency rule of August 7, 2001, since it is effective for a maximum of 120 days and will expire before the final rule takes effect. (The final rule will be published in January.)

Semi-Annual Reporting in the Food Stamp Program began in August of this year. In the early planning stages, the agency recognized potential conflicts and problems between the reporting requirements of semi-annual reporting households and households not subject to reporting. Therefore, on April 20, 2001, the agency requested, and has now been granted a waiver by the U.S. Department of Agriculture, Food and Nutrition Service, which will allow

the agency to process all interim changes reported by a semi-annual reporting household, including those that result in a decrease in food stamp benefits. The approved waiver will eliminate inequities that exist in current policy, that is, the benefits of semi-annual reporting households are not reduced as a result of reported changes while the benefits of other households would be. Additionally, administration of current policy is complicated and highly prone to error.

An emergency rule is necessary at this time in order to effect the waiver and remedy the inequities that exist in current policy in order to prevent an increase in Louisiana's food stamp error rate which would be expected to result in federal sanctions and penalties.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter S. Semi-Annual Reporting

§2013. Semi-Annual Reporting

A. - G ...

H. Effective August 7, 2001, other changes will be processed in accordance with §1999, Reduction or Termination of Benefits.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.12(a).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:1633 (August 2000), LR 27:867 (June 2001), LR 28:

Gwendolyn P. Hamilton
Secretary

0111#061

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Temporary Assistance for Needy Families (TANF) Initiatives C Starting Points Program (LAC 67:III.5501)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to amend LAC 67:III and establish a new Subpart specific to the adoption of agency-funded programs known collectively as "the TANF Initiatives." This involves a number of measures included in Act 12 of the 2001 Regular Session of the Louisiana Legislature whereby the agency will enter into agreements with other agencies and entities to fund a wide-range of programs to further the goals of the federal Temporary Assistance for Needy Families (TANF) Block Grant to Louisiana.

This emergency rule is effective November 28, 2001, and will remain in effect for a period of 120 days. This declaration is necessary to extend the original emergency rule of August 1, 2001, since it is effective for a maximum of 120 days and will expire before the final rule takes effect. (The final rule will be published in December.)

Whereas it has been shown that providing quality, early childhood education to at-risk children results in more

positive outcomes relative to developing responsible behavior and an interest in learning, for the previous eight years the agency has funded the Starting Points Early Childhood Development Program from the Child Care and Development Fund. This Starting Points school-year program is administered by the Department of Education. With the impending implementation of other initiatives, the agency has chosen to now include Starting Points as a TANF Initiative funded with TANF rather than child care monies.

Therefore, in order to provide for the continuation of the program for the 2001-02 school year and in keeping with the emergency nature of TANF Initiatives as detailed in ACT 12, an emergency rule is necessary to fund and continue services for the Starting Points Program. Additionally, the loss of this program could endanger the welfare of those at-risk families and children who are eligible for its services.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 15. Temporary Assistance to Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5501. Starting Points Early Childhood Development Program

A. The Office of Family Support will enter into a Memorandum of Understanding with the Department of Education, Office of Student and School Performance, to provide quality, early childhood education to certain four-year-old children.

B. These services meet the TANF goal of encouraging the formation and maintenance of two-parent families by providing at-risk families with quality early childhood education to four-year-old children, as well as providing support to the parents in obtaining higher literacy levels, crisis intervention, and positive parenting skills resulting in greater financial and family stability. Children placed in quality education programs at an early age are more likely to become contributing members of society by developing responsible behaviors and an interest in learning that will eventually lead to graduation.

C. Services are limited to at-risk families in which the child is one year younger than the eligible age for kindergarten and eligible to receive free or reduced school lunch meals pursuant to the Federal Child Nutrition Program as documented by a completed application for such meals, whether or not such meals are sought.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 46:231 and RS. 36:474, and Act 12, 2001 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

Gwendolyn P. Hamilton
Secretary

0111#060

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

2001 Fall Commercial Red Snapper Closure

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary of the department, by the commission in its resolution of January 4, 2001, to close the 2001 fall commercial red snapper season in Louisiana state waters when he is informed that the designated portion of the commercial red snapper quota for the Gulf of Mexico has been filled, or projected to be filled, the secretary hereby declares:

Effective 12 noon, November 10, 2001, the commercial fishery for red snapper in Louisiana waters will close and remain closed until 12 noon February 1, 2002. Nothing herein shall preclude the legal harvest of red snapper by legally licensed recreational fishermen once the recreational season opens. Effective with this closure, no person shall commercially harvest, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell red snapper. Effective with closure, no person shall possess red snapper in excess of a daily bag limit, which may only be in possession during the open recreational season as described above. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure providing that all commercial dealers possessing red snapper taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

The secretary has been notified by National Marine Fisheries Service that the commercial red snapper season in federal waters of the Gulf of Mexico will close at 12 noon November 10, 2001. Closing the season in state waters is necessary to provide effective rules and efficient enforcement for the fishery, to prevent overfishing of this species in the long term.

James H. Jenkins, Jr.
Secretary

0111#021

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Oyster Harvest Area Grid System (LAC 76:VII.519)

In accordance with the emergency provisions of R.S. 49:953.B of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures when it finds that an imminent peril to the public welfare requires adoption of a rule upon shorter notice than provided in R.S. 49:953.A, and in accordance with R.S. 56:430.1.B, which provides for the establishment of an oyster harvest area grid system, the Wildlife and Fisheries Commission does hereby adopt the following emergency rule. Adoption of this Declaration of Emergency is necessary inasmuch as it is an essential component of the coastal

restoration program which must move forward immediately to protect the public resources that are critical to the economy and welfare of our coastal areas.

This Declaration of Emergency will become effective on November 20, 2001, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule.

Title 76

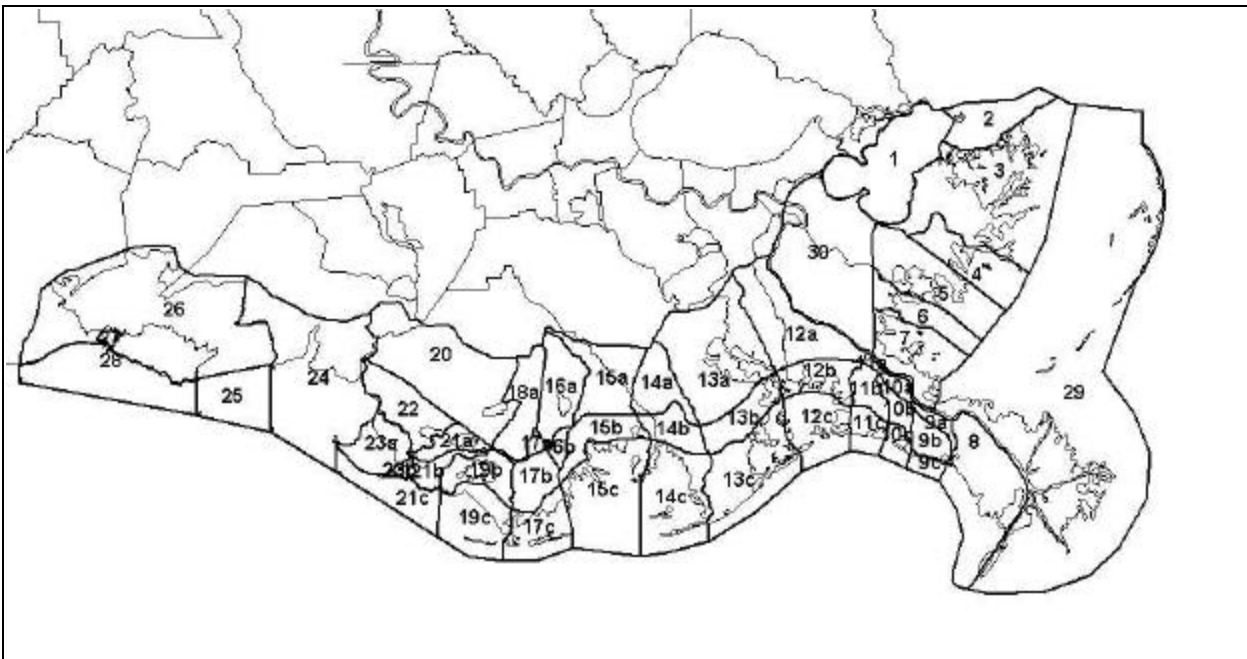
WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 5. Oysters

§519. Establishment of an Oyster Harvest Area Grid System

A. For the purpose of submission of oyster leaseholder production information, as required in R.S. 56:430.1, the oyster harvest area grid system is established as those grid areas detailed on the map which is attached hereto and made a part hereof.



AUTHORITY NOTE: Promulgated in accordance with R.S. 56:430.1.B.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 28:

Dr. H. Jerry Stone
Chairman

0111#031

Rules

RULE

Department of Agriculture and Forestry Horticulture Commission

Required Standards of Practice
(LAC 7:XXIX.117)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Horticulture Commission, has amended regulations allowing retail florists to rent ornamental plants for special events such as weddings, conventions, trade shows, etc. This Rule is enabled by R.S. 3:3808 and 3:3801.

Title 7

AGRICULTURE AND ANIMALS

Part XXIX. Horticulture Commission

Chapter 1. Horticulture

§117. Required Standards of Practice

A. General Requirements for Retail Florist

1. - 4. ...

5. Retail florists may rent potted ornamental plants for special events such as weddings, conventions, trade shows, etc., if such plants are normally and customarily sold by florists and such plants do not require maintenance, other than normal watering. Plants rented by retail florists for a special event shall be rented only for the duration of that special event.

B. - I.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3808, and R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185, amended LR 9:410 (June 1983), LR 11:317 (April 1985), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:8 (January 1988), LR 20:640 (June 1994), LR 27:1832 (November 2001).

Bob Odom
Commissioner

0111#054

RULE

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School
Administrators C Curriculum Standards (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted 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). The changes require students who pass to the 9th or 10th grade without having passed either the

mathematics or English language arts component of the 8th grade LEAP 21 to pass a high school remedial course in the subject area that they failed before taking a course for Carnegie credit in that subject area. These changes reflect changes made to the High Stakes Testing policy.

Title 28

EDUCATION

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

§901. School Approval Standards and Regulations

A. Bulletin 741

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education LR 26:635 (April 2000); LR 26:1260 (June 2000), LR 26:1260-1261 (June 2000), LR 27:1832 (November 2001).

2.105.04 Four units of English shall be required for graduation. They shall be English I, II, and III, in consecutive order, and English IV or Business English. Students who score at the *Unsatisfactory* achievement level on the English Language Arts component of Grade 8 LEAP 21 shall pass a high school remedial course in that content area before enrolling any English course in the Secondary Program of Studies for English.

For the 2001-2002 school year, Reading I or Reading II may serve as the required high school remediation course for students promoted to 9th or 10th grade without passing the English Language Arts component of Grade 8 LEAP 21.

The English course offerings shall be as follows:

Course Title	Unit
English I, II, III, IV	1 each
Business English	1
Reading I	1
Reading II	1
English as a Second Language (ESL) I, II, III, IV	1 each

2.105.17 Effective for 1997-98, incoming freshmen and thereafter, three units of mathematics shall be required for graduation. They shall be selected from the following courses and may include a maximum of 2 entry level courses (designated by E): Introductory Algebra/Geometry (E), Algebra I-Part 1 (E), Algebra 1-Part 2, Integrated Mathematics I (E), Integrated Mathematics II, Integrated Mathematics III, Applied Mathematics I (E), Applied Mathematics II, Applied Mathematics III, Algebra I (E), Geometry, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Pre-Calculus, Calculus, Probability and Statistics, and Discrete Mathematics.

Students who score at the *Unsatisfactory* achievement level on the mathematics component of Grade 8 LEAP 21 shall pass a high school remedial course in mathematics before enrolling in any course in the Secondary Program of Studies for Mathematics.

For the 2001-2002 school year, Introductory Algebra/Geometry may serve as the required high school remediation course for students promoted to 9th or 10th grade without passing the mathematics component of LEAP 21. When used as a remediation course, credit for this course may not be used to meet the mathematics graduation requirements.

The mathematics course offerings shall be as follows:

Course Title	Unit
Advanced Mathematics	1 each
Advanced Mathematics II	1
Algebra I	1
Algebra I-Part I	1
Algebra I-Part II	1
Algebra II	1
Applied Mathematics I	1
Applied Mathematics II	1
Applied Mathematics III	1
Calculus	1
Discrete Mathematics	1
Financial Mathematics	1
Geometry	1
Introductory Algebra/Geometry	1
Integrated Mathematics I	1
Integrated Mathematics II	1
Integrated Mathematics III	1
Pre-Calculus	1
Probability and Statistics	1

Financial Mathematics may be taught by teachers certified in Business Education.

2.099.00 In addition to completing a minimum of 23 Carnegie units of credit, the student shall also be required to pass the Graduation Exit Examination, beginning with the 1991 graduating class. This requirement shall first apply to students classified as sophomores in 1988-89 and thereafter.

The English language arts, writing, and mathematics components of the Graduation Exit Examination (GEE 21) shall first be administered to students in the 10th grade.

The science and social studies components of the graduation test shall first be administered to students in the 11th grade.

Remediation and retake opportunities will be provided for students that do not pass the test.

Effective for incoming freshman 2000-2001, a student may apply a maximum of two Carnegie units of elective credit toward high school graduation by successfully completing specially designed courses for remediation.

Effective for the 2001-2002 school year and thereafter, a maximum of one Carnegie unit of elective credit may be applied toward meeting high school graduation requirements by an 8th grade student who has scored at the *Unsatisfactory* achievement level on either the English Language Arts and/or the Mathematics component of the 8th grade LEAP 21 provided the student:

- successfully completed specially designed

- elective(s) for LEAP 21 remediation;
- scored at or above the *Basic* achievement level on those component(s) of the 8th grade LEAP 21 for which the student previously scored at the *Unsatisfactory* achievement level.

A student may apply a maximum of two Carnegie units of elective credit toward high school graduation by:

- Earning one elective credit through remediation for 8th grade LEAP 21 and one elective credit through GEE 21 remediation, or
- Earning two elective credits through GEE 21 remediation.

Weegie Peabody
Executive Director

0111#025

RULE

Board of Elementary and Secondary Education

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

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted 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. This change more clearly explains and refines existing policy as follows: 1) School Performance Scores for K-8 schools for Cycle 1; 2) Clarification of the calculation of the NRT Index; 3) The addition of the word "Adjusted" to the Achievement Index for grades 9-12; 4) the change in the Standard Scores for the 9th grade NRT; 5) the change in the number of bonus points for Option II students; 6) the change in the calculation of the Adjusted Achievement Index; 7) the addition of a new growth label and adjustment to the "School in Decline" label; 8) clarification of the transfer/school choice policy; 9) clarification concerning student participation in only one testing program; 10) clarification of special education students participating in out-of-level and alternate assessments.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans Subchapter A. Bulletins and Regulations §901. School Approval Standards and Regulations

A. Bulletin 741

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education LR 26:635 (April 2000); LR 26:1260 (June 2000), LR 26:1260-1261 (June 2000), LR 27:1834 (November 2001).

Bulletin 741C Louisiana Handbook for School Administrators
The Louisiana School and District Accountability System
School Performance Scores

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

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

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

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

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

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

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

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

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

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

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

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

Formula for Calculating an SPS [K-8]

The SPS for a sample school is calculated by multiplying the index values for each indicator by the weight given to that indicator and adding the total scores. In the example,

$$[(66.0 * 60\%) + (75.0 * 30\%) + (50.0 * 10\%)] = 67.1$$

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

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

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

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

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

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

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

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

If, during spring testing, a repeating fourth grade student or Option I 8th grade student receives a score of Approaching Basic or above on a LEAP 21 test of mathematics, English language arts, science or social studies for which he/she received a score of Unsatisfactory the previous spring, the retaining school shall receive 50 bonus points per subject in its accountability index. A student may earn a maximum of 200 bonus points for his/her school. (No bonus 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 School's NRT Index [K-8]

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

Transition Years [K-8]

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

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

Attendance Index Calculations [K-8]

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

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

Attendance Index Formula

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

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

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

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

Lowest Attendance Index Score

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

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

Dropout Index Calculations

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

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

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

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

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

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
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Lowest Dropout Index Score

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

School Performance Scores for 9-12

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

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

Transition Years [9-12]

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

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

*Indicates use of prior year data for these indexes.

Transition Years [Combination Schools]

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

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

Growth SPS Data	CRT Index Components
2001	All CRT (without 11th grade) (Cycle 1)
2002	All CRT (without 11th grade) (Cycle 1) All CRT (Cycle 2)
2003	All CRT (without 11th grade) (Cycle 1) All CRT (Cycle 2)

Formula for Calculating an SPS - Accountability Cycle 1 [9-12]

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

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

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

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

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

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

Formula for Calculating an SPS - Accountability Cycle 2 [9-12]

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

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

In this example:

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

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

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

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

NRT Goals and Equivalent Standard Scores for Grade 9

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

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

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

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

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

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

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

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

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 programs:

- LEAP 21 or,
- GEE 21 or,
- Iowa On-Level or,
- Iowa Out-of-Level or,
- Louisiana Alternate Assessment

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

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

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

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

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

Example 1 - Grade 9:

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

Example 2 - Grade 10:

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

Attendance Index Calculations for Grades 9-12

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

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

Attendance Index Formula for Grades 9-12

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

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

Example:

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

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

Dropout Index Calculations for Grades 9-12

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

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

Dropout Index Formula for Grades 9-12

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

Example:

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

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

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

Data Collection

2.006.04 A test score shall be entered for all eligible students within a given school. For any eligible student who does not take the test, including those who are absent, a score of "0" on the CRT and NRT shall be calculated in the school's SPS. (See Standard 2.006.18 for students participating in out-of-level testing.) To assist a school in dealing with absent students, the Louisiana Department of Education shall provide an extended testing period for test administration. The only exception to this policy is a student who was sick during the test and re-testing periods and who has formal medical documentation for that period.

Growth Targets

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

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

Growth Targets

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

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

where

PropSE = the number of special education students in the school who are eligible to participate in the NRT or CRT, divided by the total number of students in the school who are eligible to participate in the NRT or CRT. For purposes of this calculation, gifted, talented, speech or language impaired, 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.

SPS = School Performance Score

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

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

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

Growth Targets for New or Reconfigured Schools

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

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

Growth Targets for Reconstituted Schools

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

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

Growth Labels

2.006.06 A school shall receive a label based on its success in attaining its Growth Target.

Growth Labels

A school exceeding its Growth Target by 5 points or more shall receive a label of Exemplary Academic Growth.

A school exceeding its Growth Target by fewer than 5 points shall receive a label of Recognized Academic Growth.

A school improving (at least 0.1 points), but not meeting its Growth Target, shall receive a label of Minimal Academic Growth.

A school showing a change in its SPS of 0 to -5.0 points, shall receive a label of No Growth

A school with a declining SPS (more than -5.0 points) shall receive a label of School in Decline.

When a school's SPS is greater than or equal to the State's goal, "Minimal Academic Growth," "No Growth" and "School in Decline" labels shall no longer apply.

Performance Labels

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

A school with a SPS of 30 or below shall be identified as an Academically Unacceptable School. This school immediately enters Corrective Actions.

For purpose of determining Academically Unacceptable Schools, during the summer of 1999 for K-8 schools and during the summer of 2001 for 912 schools, the SPS that includes only regular education students shall be used. Any school with an SPS of 30 or less, based on the test scores of regular education students only, shall be deemed an Academically Unacceptable School.

A school with a SPS of 30.1 - state average shall be labeled Academically Below the State Average.

A school with a SPS of state average - 99.9 shall be labeled Academically Above the State Average.

*The state average is recalculated every growth cycle.

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

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

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

**A school with these labels shall no longer be subject to Corrective Actions and shall not receive "negative" growth labels: i.e., School in Decline, No Growth, and Minimal Academic Growth. This school shall continue to meet or exceed Growth Targets to obtain "positive" growth labels, recognition, and possible rewards.

Transfer Policy

2.006.11 Parents shall have the right to transfer their child to another public school when an Academically Unacceptable School begins Corrective Actions Level II or any other school begins Corrective Actions Level III.

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

Upon parental request, districts shall transfer the child to the nearest acceptable school prior to the October 1 student membership count.

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

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

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

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

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

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

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

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

- a description of the School/District Plan for those schools having to offer School Choice that addresses the following:
 - 1) Educator Quality
 - Principal Certification/Qualifications
 - Principal Leadership and Effectiveness
 - Teacher Qualifications/Certification
 - 2) Professional Development
- To address teacher professional learning based on student data
 - To address uncertified/inexperienced teacher professional learning if certified/experienced teachers are unavailable for placement in the school
- 3) Alignment of Curriculum, Instruction and Assessment with State Content Standards;
- 4) Teacher/Pupil Ratio;
- 5) Early Intervention/Remediation Programs;

- 6) Time on Task/Extended Learning Opportunities;
- 7) Parental Involvement; and
- 8) Discipline/Safety/Health Issues;
- 9) Renovation/Capital Improvement.

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

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

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

Inclusion of Students with Disabilities

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

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

A student participating in out-of-level testing must test three or more grade levels below in either English/Language Arts or Mathematics. If a student does not test three or more grade levels below in at least one of these subject areas, he/she will receive a "0" for growth.

For students with disabilities who test out-of-level, Iowa (ITBS) standard scores from two consecutive years shall be

compared in the following manner to determine student performance in calculating the SPS:

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

The scores of Special Education students participating in out-of-level testing shall be excluded from the School Performance Score for the school year 1999-2000.

Appeals Process for Exceeding the Established Caps for Out-of-Level Alternate Assessment of Students with Disabilities

I. School districts that either

A) exceed a total of 4 percent but less than 5 percent of the total district population at any grade level participating in out-of-level testing and alternate assessment,
AND/OR

B) exceed a total of 1.5 percent but less than 2 percent of the total district population at any grade level participating in alternate assessment
must submit the following to the Department of Education (DOE) for review and approval:

- 1) a justification documenting the reasons for exceeding the cap(s), and
- 2) a corrective action plan to
 - increase participation in on-level assessment of the total district population at the grade level(s) where the cap was exceeded, and when applicable;
 - decrease participation in alternate assessment to a maximum of 1.5 percent of the total district population at the grade level(s) where the cap was exceeded.

II. School districts that either

C) exceed a total of 5 percent or more of the total district population at any grade level participating in out-of-level testing and alternate assessment,
AND/OR

D) exceed a total of 2 percent of the total district population at any grade level participating in alternate assessment
must submit the following to the Department of Education for review and approval:

- 3) a justification documenting the reasons for exceeding the cap(s), and
- 4) a corrective action plan to
 - increase participation in on-level assessment of the total district population at the grade level(s) where the cap was exceeded, and when applicable;
 - decrease participation in alternate assessment to a maximum of 1.5 percent of the total district population at the grade level(s) where the cap was exceeded.

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

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

Weegie Peabody
Executive Director

0111#024

RULE

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School Administrators
C Written Policies Required of Local School Systems (LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted 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). This rule amends an existing policy in Bulletin 741 regarding required written policies of local school districts. This rule adds a requirement that LEAs have a systemwide policy regarding participation in graduation ceremonies.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

' 901. School Approval Standards and Regulations

A. Bulletin 741

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended by the Board of Elementary and Secondary Education LR 26:635 (April 2000); LR 26:1260 (June 2000), LR 26:1260-1261 (June 2000), LR 27:1840 (November 2001).

Instructional Program Policies

1.010.01 Each school system shall have policies and implementing procedures stated in written form for instructional programs, graduation ceremonies, student activity programs, and student services.

Weegie Peabody
Executive Director

0111#026

RULE

Student Financial Assistance Commission

Office of Student Financial Assistance

Scholarship/Grant Programs
(LAC 28:IV.101-111, 301, 501-509, 701-705, 801-805, 901-911, 1101-1111, 1303-1305, 1501-1503, 1701-1705, 1901-1903, 2101-2115, 2301-2313)

The Louisiana Student Financial Assistance Commission (LASFAC) is amending and repromulgating rules of the Scholarship/Grant programs (R.S. 17:3021-3026, R.S. 17:3041.10-3041.15, and R.S. 17:3042.1, R.S. 17:3048.1).

The rules are necessary to implement statutory changes enacted during the 2001 Regular Session of the Legislature. Sections 103, 301, 703, 705, 801, 803, 805, 901, 911, 1303, 1701, 1703, 1901, 1903, and 2103 are being amended. All other sections are being repromulgated to provide a clear depiction of the current rules.

Title 28
EDUCATION

Part IV. Student Financial Assistance
Higher Education Scholarship and Grant Programs

Chapter 1. Scope

§101. Introduction

A. Statutory Authority. The Louisiana Student Financial Assistance Commission (LASFAC) was created by Chapter 20, Higher Education Assistance, Louisiana Revised Statutes of 1950, comprised of R.S. 17:3021-3036, for the purpose of supervising, controlling, directing and administering state and federal programs to provide loans to assist persons in meeting the expenses of higher education, and state and federal scholarship and grant programs for higher education. The Louisiana Office of Student Financial Assistance (LOSFA), under authority of the commission, administers state and federal post-secondary student scholarship, grant and loan programs.

B. Agency's Mission Statement. The mission of LOSFA is to provide resources to Louisiana residents for the pursuit of post-secondary education.

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

HISTORICAL NOTE: Promulgated LR 24:632 (April 1998), amended LR 24:1897 (October 1998), repromulgated 27:1841 (November 2001)

§103. Purpose

A. LAC 28:IV provides the rules and regulations governing participation in the scholarship and grant programs administered by LASFAC including, but not limited to:

1. applicants and recipients;
2. high school counselors;
3. principals and headmasters;
4. superintendents;
5. college and university financial aid directors and staff; and
6. federal and state authorities.

B. LAC 28:IV was developed to meet the following objectives:

1. establish scholarship and grant policies and procedures that implement and explain or interpret statutes;
2. define the program responsibilities of participants (applicants, recipients, and high school, school board and post-secondary institution officials);
3. ensure that scholarships and grants are awarded in accordance with statute and legislative intent;
4. establish procedures to monitor the performance of scholarship and grant recipients;
5. ensure compliance with statutory and regulatory provisions governing the administered programs.

C. Since these rules and regulations can neither anticipate nor address every situation that might be encountered in the administration of the scholarship and grant programs included herein, participants in doubt about the applicability or interpretation of a rule or regulation in LAC 28:IV are advised to contact LOSFA for guidance.

D. LAC 28:IV shall be amended and updated as necessary. Such updates will be forwarded to institutions in the form of Scholarship and Grant Program Memoranda (SGPM), or Tuition Opportunity Program for Students (TOPS) Bulletins. These Memoranda and bulletins will cover additions, deletions, revisions and clarifications to the rules and regulations. In compliance with Act 1302 of the 1999 Regular Session of the Legislature, information shall be mailed to the President and Superintendent of each City and Parish School Board in the State, the principal and counselors of each high school in the state, the Chancellor, Director of Financial Aid, Business Office, Auditor and Registrar of each public post-secondary school in the state and each regionally accredited independent college or university which is a member of the Louisiana Association of Independent Colleges and Universities.

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

HISTORICAL NOTE: Promulgated LR 24:632 (April 1998), amended LR 24:1897 (October 1998), LR 26:65 (January 2000), LR 27:1841 (November 2001).

§105. Effective Date

A. These rules and regulations are effective for awards beginning with the 1998-99 academic year.

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

HISTORICAL NOTE: Promulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), repromulgated LR 27:1841 (November 2001).

§107. Authority to Audit

A. By participating in the scholarship and grant programs administered by LASFAC and described in LAC 28:IV, all participants, including high schools and post-secondary institutions, grant LASFAC and the Louisiana legislative auditor the right to inspect records and perform on-site audits of each institution's administration of the programs for the purpose of determining the institution's compliance with state law and LASFAC's rules and regulations.

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

HISTORICAL NOTE: Promulgated LR 24:632 (April 1998), amended LR:24:1898 (October 1998), repromulgated LR 27:1841 (November 2001).

§109. Discrimination Prohibition

A. The exclusion of a person from equal opportunity for a Louisiana scholarship and/or grant program administered by LASFAC because of race, religion, sex, handicap, national origin or ancestry is prohibited. No policy or procedure of this agency shall be interpreted as superseding or contradicting this prohibition.

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

HISTORICAL NOTE: Promulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), repromulgated LR 27:1841 (November 2001).

§111. Criminal Penalties

A. All certifications of student performance which are submitted to LASFAC for the purpose of determining a student's eligibility for an award under a student aid program administered by LASFAC shall be by sworn affidavit of the certifying official and such official shall be subject to criminal law applicable to false swearing.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:632 (April 1998), amended LR 24:1898 (October 1998), repromulgated LR 27:1841 (November 2001).

Chapter 3. Definitions

§301. Definitions

A. Where the masculine is used, in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

Academic Year (College) Cthe two- and four-year college and university academic year begins with the fall term of the award year, includes the winter term, if applicable, and concludes with the completion of the spring term of the award year. The two- and four-year college and university academic year does not include summer sessions nor intersessions.

Academic Year (High School) Cthe annual academic year for high school begins with the fall term, includes the winter and spring terms and ends at the conclusion of the summer term, in that order. This definition is not to be confused with the Louisiana Department of Education's definition of school year, which is found in Louisiana Department of Education Bulletin 741.

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

Average Award Amount Cfor those students with a TOPS Opportunity, Performance, or Honors Award attending a regionally accredited independent college or university in this state which is a member of the Louisiana Association of Independent Colleges and Universities and enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, the average maximum tuition, as determined by the agency, charged to full time students attending public post-secondary institutions for technical training that offer a vocational or technical education certificate or diploma program or a non-academic undergraduate degree.

Average Award Amount (TOPS-Tech) Cfor those students with the TOPS-Tech Award attending an eligible college or university that offers an academic undergraduate degree at the baccalaureate level or higher and enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, the total dollar value of awards made under TOPS-Tech in the prior academic year to students attending public colleges and universities that do not offer academic degrees at the baccalaureate level, divided by the total number of students that received the awards.

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

a. For students with the TOPS Opportunity, Performance, and Honors Award attending a Louisiana public college or university and enrolled in an academic degree program, the amount shall equal the actual cost of tuition.

b. For students with the TOPS Opportunity, Performance, and Honors Award attending a regionally accredited independent college or university in Louisiana that is a member of the Louisiana Association of Independent Colleges and Universities and enrolled in an academic degree program, the amount shall equal the Weighted Average Award Amount.

c. For students with the TOPS Opportunity, Performance, and Honors Award attending a Louisiana public college or university and enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, the amount shall equal the actual cost of tuition.

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

e. For students with the TOPS-Tech Award attending an eligible public college or university that does not offer an academic undergraduate degree at the baccalaureate level or higher and enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, the amount shall equal the actual cost of tuition.

f. For students with a TOPS-Tech Award attending an Eligible College or University that offers an academic undergraduate degree at the baccalaureate level or higher and enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, the amount shall equal the Average Award Amount (TOPS-Tech).

g. For students with the TOPS Opportunity, Performance, and Honors Award enrolled in a Louisiana professional school, the amount shall be equal to the tuition charged for a student while pursuing a baccalaureate degree at the highest cost public school or the Weighted Average Award Amount, depending upon whether the Louisiana professional school is a public or private school.

BESEC Board of Elementary and Secondary Education, elected and appointed body with statutory oversight of Louisiana special, elementary and secondary schools.

Cost of Attendance Cthe total amount it will cost a student to go to school, usually expressed as an academic year figure. This cost is determined by the school in compliance with Title IV of the Higher Education Act of 1965, as amended, and is annually updated and adopted by the institution. The cost of education covers tuition and fees, on-campus room and board (or a housing and food allowance for off-campus students) and allowances for books, supplies, transportation, child care, costs related to a disability, and miscellaneous expenses. Also included are reasonable costs for eligible programs of study abroad. An allowance (determined by the school) is included for

reasonable costs connected with a student's employment as part of a cooperative education program.

Cumulative College/University Grade Point Average the calculation of grade point average by a Reporting Institution for all courses taken at post-secondary institutions to determine whether a student has maintained Steady Academic Progress and whether a student has met the minimum grade point average required to maintain eligibility for continuation of a TOPS Award. The cumulative grade point average must be calculated on a 4.00 scale and must include all courses from all post-secondary institutions attended for which a student has been awarded a grade. Courses taken at a college or university other than the Reporting Institution while the student was still in high school and at post-secondary institutions other than the Reporting Institution must be included in the calculation, even if the Reporting Institution does not recognize the course(s) for graduation purposes. Courses taken on a pass/fail basis are not considered in the calculation of the cumulative grade point average.

Cumulative High School Grade Point Average the final cumulative high school grade point average calculated on a 4.00 scale for all courses attempted, including each course that is repeated. Effective for high school graduates beginning with the Academic Year (High School) 2002-2003, the Cumulative High School Grade Point Average shall be calculated by using only the course grades achieved for those courses included in the core curriculum. In the event a student has received credit for more than 16.5 hours of courses that are included in the core curriculum, the Cumulative High School Grade Point Average shall be calculated by using the course in each core curriculum category for which the student received the highest grade. For example, if a student has taken more than one Advanced Mathematics course, the Cumulative Grade Point Average shall be determined by using only the course in which the student has received the highest grade. In the event a student takes the same core course more than one time, the Cumulative High School Grade Point Average shall be calculated using the average of the grades earned in each repeated course. For example, a student who earns an "F" in Algebra I and who earns a "B" by repeating the course would add "0" for the "F" to "3" for the "B" and divide by two, resulting in a "1.5" grade for calculating the Cumulative Grade Point Average.

a. For those high schools that utilize other than a 4.00 scale, all grade values must be converted to a 4.00 scale utilizing the following formula:

$$\frac{\text{Quality Points Awarded for the Course}}{\text{Maximum Points Possible for the Course}} = \frac{X (\text{Converted Quality Points})}{4.00 (\text{Maximum Scale})}$$

b. For schools awarding a maximum of 5 points for honors courses, the formula would be used to convert the honors course grade of "C" as shown in the following example.

$$\frac{3.00}{5.00} = \frac{X}{4.00}$$

By cross multiplying,

$$5X = 12; X = 2.40$$

Quality points = Credit for course multiplied by the value assigned to the letter grade.

Dependent Student a student who is dependent on his or her parents or legal guardian for support and therefore is required to include parental information on the Free Application for Federal Student Aid (FAFSA) or renewal FAFSA.

Disabled Student a student who has one or more learning, visual, hearing, or physical disabilities diagnosed by a person licensed or certified to diagnose such disability, when the diagnosis states the need for the student to be provided special accommodations relative to the curriculum requirement.

Eligible Colleges or Universities Louisiana public colleges or universities and regionally accredited independent colleges or universities in the state that are members of the Louisiana Association of Independent Colleges and Universities.

Eligible Noncitizen an individual who can provide documentation from the Immigration and Naturalization Service (INS) that he is in the U.S. for other than a temporary purpose with the intention of becoming a citizen or permanent resident. Including, but not limited to, refugees, persons granted asylum, Cuban-Haitian entrants, temporary residents under the recent Immigration Reform and Control Act of 1986, and others. A permanent resident of the U.S. must provide documentation from the INS to verify permanent residency. For 1997, 1998, and 1999 high school graduates, an Eligible Noncitizen shall be treated as meeting the citizenship requirements for an award under this Part.

Eligible Non-Louisiana High School and Eligible Out-of-state High School and Eligible Out of Country High School see §1701.A.3., 1701.A.4., and 1701.A.5., respectively.

Exceptional Child a student defined as an exceptional child in accordance with R.S.17:1943(2), excluding gifted and talented.

Expected Family Contribution (EFC) an amount, determined by a formula established by Congress, that indicates how much of a family's financial resources should be available to help pay for the student's cost of attendance. Factors such as taxable and nontaxable income, assets (such as savings and checking accounts), and benefits (for example, unemployment or Social Security) are all considered in this calculation.

Fee Schedule a listing of the actual tuition and mandatory fees for attendance at a post-secondary school as defined by the institution.

First-Time Freshman a student who is awarded TOPS Opportunity, Performance, or Honors and enrolls for the first-time as a full-time freshman in an academic program in a post-secondary school subsequent to high school graduation, and continues to be enrolled full-time at the end of the fourteenth class day (ninth class day for Louisiana Tech) or enrolls for the first time, full-time in a Louisiana public community or technical college that offers a vocational or technical education certificate or diploma program or a non-academic undergraduate degree to pursue a skill, occupational training, or technical training

subsequent to high school graduation. A student who is awarded TOPS Opportunity, Performance, or Honors and begins in an academic program in a post-secondary college or university in a summer session will be considered a First-Time Freshman for the immediately succeeding fall term. A student who is awarded TOPS Opportunity, Performance, or Honors and begins in a non-academic program in a post-secondary school in a summer term will be considered a First-Time Freshman at the time of such enrollment. The fact that a student enrolls in a post-secondary school prior to graduation from high school and/or enrolls less than full time in a post-secondary school prior to the required date for full time enrollment shall not preclude the student from being a First-Time Freshman.

First-Time Student C a student who is awarded TOPS-TECH and enrolls for the first time, full-time in a Louisiana public community or technical college that offers a vocational or technical education certificate or diploma program or a non-academic undergraduate degree to pursue a skill, occupational training, or technical training subsequent to high school graduation, and continues to be enrolled full-time. The fact that a student who is awarded TOPS-TECH enrolls in an academic program at a post-secondary school prior or subsequent to graduation from high school, but prior to the required date for full time enrollment in a Louisiana public community or technical college that offers a vocational or technical education certificate or diploma program or a non-academic undergraduate degree, shall not preclude the student from being a First-Time Student.

Full-Time Student C

a. a student enrolled in an institution of higher education who is carrying a full-time academic workload as determined by the school under the standards applicable to all students enrolled;

b. for continuation purposes, a student must be enrolled full-time at the end of the fourteenth class day (ninth class day for Louisiana Tech or Louisiana Technical College);

c. for continuation purposes, a student is considered to have met the full-time requirement if by the completion of the academic year he has earned at least 24 hours of total credit as reported by the institution for the fall and spring semesters at institutions defining 12 semester hours as the minimum for standing as a full-time undergraduate or as reported by the institution for the fall, winter and spring quarters at institutions defining 8 quarter hours as the minimum for standing as a full-time undergraduate. For purposes of TOPS and except where specified otherwise within these rules, a student shall be credited for hours earned as reported by the institution which the student attends in accordance with that institution's published policies. Students should be aware that these policies may differ depending on the school the student attends. (see 705.A.7., 705.D., 805.A.7., and 907.A.2. for more expanded TOPS requirements);

d. for programs which permit graduate study, a graduate student must have earned at least 18 hours of total credit during the fall, winter and spring terms;

e. a workload of at least 30 clock hours per week is the full-time equivalent at a technical college;

f. a student enrolled in two or more institutions of higher education when such multiple enrollment is necessary for the student to gain access to the courses required for completion of the degree in the chosen discipline and where the total number of hours earned at all institutions during the academic year is the equivalent of carrying a full-time academic workload as determined by the institution which will award the degree.

High School Graduate C for the purposes of these rules, is defined as a student certified by award of a high school diploma to have satisfactorily completed the required units at a high school meeting the eligibility requirements of these rules or a student who has completed a BESE-approved home study program in accordance with the requirements of this Chapter and has reported such to BESE. A student who graduates at any time during an Academic Year (High School) shall be deemed to have graduated on May 31st of that year for the purpose of applying deadlines. For the purpose of determining when a student must begin post-secondary enrollment, all students that report completion of an approved home study program to BESE during an Academic year (High School) are deemed to have graduated on May 31st of that year.

Independent Student C a student who meets at least one of the criteria listed in Subparagraphs a. - f. or has been determined independent by a financial aid officer exercising professional judgment in accordance with applicable provisions of the Higher Education Act of 1965, as amended:

a. reached 24 years of age prior to January of the year preceding the academic year for which the student is applying for aid;

b. is a veteran of the U.S. Armed Forces, including a student who was activated to serve in Operation Desert Storm;

c. is an orphan or a ward of the court or was a ward of the court until age 18;

d. has legal dependents other than a spouse;

e. is a graduate or professional student;

f. is married.

Legal Guardian C an adult appointed by a court of competent jurisdiction to have custody and care of a minor, and who demonstrates the requirement to provide the primary support for such minor. Also referred to as a *court ordered custodian*.

Louisiana Resident C

a. any independent student or any dependent student with at least one parent or court ordered custodian who has resided in the state for a minimum of 24 consecutive months immediately preceding the month of high school graduation or the month of May in the Academic Year (High School) that a student completes a home study program or some other period of residency which is required to qualify the person for a specific program administered by the LASFAC. To qualify for a program under Part IV of these rules, in addition to the certification of residency found on the application form, the administering agency may require an independent student applicant or the parent(s) or legal guardian of a dependent student applicant to show proof of residency. Residency may be established by completion of a standard affidavit developed by the administering agency. Such affidavits must be completed in

their entirety by the independent student applicant or by at least one parent or legal guardian of the dependent student applicant and be sworn to and notarized by a licensed notary public. Further, the affiant shall be required to submit records in support of the affidavit to include the following records and such other records as may be required by the administering agency:

- i. if registered to vote, a Louisiana voters registration card; and
- ii. if licensed to drive a motor vehicle, a Louisiana driver's license; and
- iii. if owning a motor vehicle located in Louisiana, a Louisiana registration for that vehicle; and
- iv. if earning a reportable income, a Louisiana tax return.

b. any member of the Armed Forces on active duty who is a resident of Louisiana as demonstrated by the member's DD Form 2058 validated by the member's military personnel officer, whose official military personnel or pay records show that the member claims Louisiana as his home of record, and who has filed a Louisiana tax return for the most recent two years in compliance with a.iv, above.

c. any member of the Armed Forces who is stationed in Louisiana under permanent change of station orders and who, not later than sixty days after reporting to such station, changes his military DD Form 2058 to reflect Louisiana as his state of legal residence, and complies with all Louisiana income tax laws and regulations while stationed in Louisiana. A copy of a completed residency affidavit, a copy of the Permanent Change of Station (PCS) Orders, and a DD Form 2058 validated by the member's military personnel officer and showing Louisiana as the member's state of legal residence, must be submitted to the Louisiana Office of Student Financial Assistance (LOSFA) at the time the service member's dependent applies for TOPS. The DD Form 2058 must reflect that it was filed within sixty days after the member reported to duty at a duty station in Louisiana.

d. a parent or court-ordered custodian who is living outside the United States and its territories, is actively engaged in work or another activity on behalf of a Louisiana employer or sponsor, and is not on active duty with the United States armed forces, may meet the residency requirement for dependent students by providing a sworn affidavit with supporting evidence that the parent or court-ordered custodian complies with all of the following:

- i. was a resident of Louisiana who actually lived in Louisiana for at least the twenty-four months preceding the date he started the work or activity outside the United States and its territories.
- ii. was assigned duties outside the United States and its territories by a Louisiana employer or sponsor and continues to be employed by the employer or perform duties for the sponsor through the date of the student's graduation from high school or completion of a home study program approved by BESE.
- iii. has remained a resident of Louisiana through the date of the student's graduation from high school or completion of a home study program approved by the State Board of Elementary and Secondary Education. Evidence may include a Louisiana voters registration card, a Louisiana driver's license, a Louisiana registration for an owned

vehicle, a Louisiana tax return, notarized affidavits, copies of correspondence from the employer or sponsor providing the reason for living outside the United States and its territories and the time period of the work or activity, copies of visas, copies of foreign housing documentation, and copies of other documents that demonstrate a presence in Louisiana or a foreign country during the required period of time.

Merit Ranking FormulaCa mathematical equation incorporating selected merit factors which is used to rank eligible applicants in the priority by which competitive scholarships are to be awarded. As of July 1, 1997, the TOPS Teacher Award and Rockefeller State Wildlife Scholarship are the only programs in which applicants are competitively ranked. The following formulas for the merit ranking of scholarship applicants provide for the equating of scores for high school graduating seniors and college students.

a. Formula I applies to applicants for the Rockefeller State Wildlife Scholarship with less than 24 hours of graded college credit and to applicants for the TOPS Teacher Award with less than 48 hours of graded college credit:

$$\text{Merit Score} = \left(\left(\frac{\text{HSGPA}}{4.00} \right) \times 60 \right) + \left(\left(\frac{\text{ACT}}{36} \right) \times 40 \right)$$

b. Formula II applies to applicants for the Rockefeller State Wildlife Scholarship with 24 or more hours of graded college credit and to applicants for the TOPS Teacher Award with 48 or more hours of graded college credit:

$$\text{Merit Score} = \left(\left(\frac{\text{College GPA}}{4.00} \right) \times 90 \right) + \left(\left(\frac{\text{College Level}}{4} \right) \times 10 \right)$$

c. Formula III applies to applicants for the TOPS Teacher Award. For those applicants majoring in math or chemistry, an additional 10 points are added to the merit score determined by Formula I or II, resulting in an adjusted merit score.

d. Applicants' merit scores are ranked in descending order with the applicant with the highest merit score ranked first. The number of applicants selected for award is dependent upon the amount of award funds available.

Monetary RepaymentCfor purposes of the Rockefeller State Wildlife Scholarship and TOPS Teacher Award Programs, repaying the scholarship funding received, plus any interest accrued under the terms of the promissory note signed by the recipient, if the recipient fails to fulfill the terms of the program. See *Repayment*.

OrphanCa person who does not live with either parent because the parent(s) is/are dead or has/have abandoned him or the parental rights of the parent(s) has/have been severed by competent authority.

Over AwardCfor the purposes of LAC 28:IV, an over award occurs when a student received financial aid in excess of the cost of attendance as established in accordance with federal Title IV regulations or an award under state programs to which the student was not entitled.

Program Year (Non-Academic Program)Cthe schedule of terms during a year leading to a vocational or technical education certificate or diploma or a non-academic

undergraduate degree for such programs offered by Eligible Colleges and Universities, beginning with the fall term, including the winter and spring terms, and concluding with the summer term or the equivalent schedule at an institution which operates on units other than terms.

Qualified Summer SessionCthose summer sessions for which the student's institution certifies that:

a. the summer session is required in the student's degree program for graduation and the student enrolled for at least the minimum number of hours required for the degree program for the session; or

b. the student can complete his program's graduation requirements in the summer session; or

c. the course(s) taken during the summer session is required for graduation in the program in which the student is enrolled and is only offered during the summer session.

RefundCa refund of school charges that the school makes to a student or to a creditor on behalf of the student, usually after the student has withdrawn from school. The refund to the student is the difference between the amount the student paid toward school charges minus the amount the school keeps for the portion of the payment period that the student was enrolled.

RepaymentCthe amount of the cash disbursement that a student must pay back to the school if the student withdraws from the program. If the cash disbursement was greater than the student's cost of attendance (student's education costs above and beyond the amount of tuition and fees) up to the withdrawal date, the student must repay the excess amount. The actual amount of the refund/repayment is determined according to the school's policy in accordance with federal regulations. See *Monetary Repayment*.

Reporting InstitutionCThe post-secondary institution required by Section 1903.A of these rules to report a student's College/University Cumulative Grade Point Average.

Steady Academic ProgressCthe maintenance of a minimum cumulative grade point average of 2.00 on a 4.00 scale. Students will be required to maintain Steady Academic Progress effective for the beginning of the 1999 Fall Semester.

Substantial Financial NeedCfor purposes of the LEAP (formerly SSIG) program only, substantial financial need is the difference between the student's cost of attendance and the sum of that student's expected family contribution (EFC), plus other student aid the student is due to receive. The difference thus computed must exceed \$199.

TuitionCthe fee charged each student by a post-secondary institution to cover the student's share of the cost of instruction, including all other mandatory enrollment fees charged to all students, except for the Technology Fee authorized by Act 1450 of the 1997 Regular Session of the Legislature, which were in effect as of January 1, 1998, and any changes in the cost of instruction authorized by the legislature and implemented by the institution after that date.

Undergraduate StudentCa student who has not completed the requirements for a baccalaureate degree program.

Weighted Average Award AmountCfor those students with the TOPS Opportunity, Performance, and Honors Award attending a regionally accredited independent college or university in this state which is a member of the Louisiana Association of Independent Colleges and Universities and enrolled in an academic program, the total dollar value of awards made under TOPS in the prior academic year, excluding award stipends, to students attending public colleges and universities that offer academic degrees at the baccalaureate level, divided by the total number of students that received the awards.

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

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

Chapter 5. Application; Application Deadlines and Proof of Compliance

§501. Application

A. Initial Application. All new applicants for Louisiana scholarship and grant programs must apply for federal aid by completing the Free Application for Federal Student Aid (FAFSA) for the academic year following the year the student graduated from high school. For example, if the student will graduate from high school in school year 2000-2001, submit the 2001-2002 version of the FAFSA.

1. All applicants (except those students who can demonstrate that they do not qualify for federal grant aid because of their family's financial condition) must complete all applicable sections of the initial FAFSA.

2. Students who can demonstrate that they do not qualify for federal grant aid because of their family's financial condition must complete all applicable sections of the initial FAFSA except those sections related to the income and assets of the applicant and the applicant's parents.

3. In the event of a budgetary shortfall, applicants who do not complete all sections of the FAFSA will be the first denied a TOPS award.

B. Renewal Application

1. In order to remain eligible for TOPS awards, a student must file a renewal FAFSA by the deadline set in §503 (unless the student can demonstrate that he does not qualify for federal grant aid because of his family's financial condition).

2. Students who can demonstrate that they do not qualify for federal grant aid because of their family's financial condition are not required to submit a renewal FAFSA.

3. In the event of a budgetary shortfall, applicants who do not file a FAFSA or who do not complete all sections of the FAFSA will be the first denied a TOPS award.

C. The deadline for priority consideration for state aid is published in the FAFSA's instructions and may be revised annually by the LASFAC.

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

HISTORICAL NOTE: Promulgated LR 24:635 (April 1998), amended LR 24:1900 (October 1998), LR 26: (September 2000), repromulgated LR 27:1846 (November 2001).

§503. Application Deadlines

A. Deadline for Priority Consideration

1. For priority consideration for the 1998-99 award year, applicants must submit the FAFSA to be received by the federal processor by June 1, 1998.

2. Priority consideration means that an applicant who submits a FAFSA by this date shall, under normal circumstances, receive notification of his eligibility for a noncompetitive award (TOPS Opportunity, Performance and Honors Awards) prior to enrolling in the fall term.

3. An applicant for a competitively awarded scholarship (TOPS Teacher Award and Rockefeller State Wildlife Scholarship) who submits a FAFSA by this date shall be considered for selection of award in the first round of applicants awarded.

4. For priority consideration for award years after 1998-99, applicants must submit the FAFSA to be postmarked by April 15, or to be received by the federal processor by May 1, preceding the award year.

B. Final Deadline For Full Award. In order to receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of a student's initial FAFSA application is July 1st of the Academic Year (High School) in which a student graduates. For example, for a student graduating in the 2000-2001 Academic Year (High School), the student must submit the initial FAFSA in time for it to be received by the federal processor by July 1, 2001.

C. If a prescribed deadline date falls on a weekend or holiday, it will automatically be extended to the next business day.

D. Final Deadlines For Reduced Awards

1. If an application for an initial award under this Chapter is received after the deadline provided in §503.B above, but not later than sixty days after that deadline, the time period of eligibility for the award shall be reduced by one semester, two quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters.

2. If an application for an initial award under this Chapter is received more than sixty days after the deadline provided in §503.B above, but not later than one hundred twenty days after that deadline, the time period of eligibility for the award shall be reduced by two semesters or three quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters.

3. Applications received more than 120 days after the published deadline shall not be considered.

E. The reduction of the applicant's period of eligibility for this award under §503.D above shall not be cumulative with any reduction under §509.C.

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

HISTORICAL NOTE: Promulgated LR 24:635 (April 1998), amended LR 24:1900 (October 1998), LR 25:655 (April 1999), LR 25:2396 (December 1999), LR 25: (September 2000), repromulgated LR 27:1847 (November 2001).

§505. Proof of Compliance

A. As proof of compliance with the state's final deadline for submitting the FAFSA, LASFAC will accept the documentation listed in §505.1-3. No other form of verification, including notarized or certified statements, will be accepted as proof of compliance with the deadline requirement.

1. A certificate of mailing, registered, certified, certified/return receipt requested, priority or overnight mail receipt from the United States Postal Service, or other authorized mail carriers such as United Parcel Service and Federal Express, which is dated prior to the state's final deadline.

2. The Institutional Student Information Report (ESAR ISIR), produced by the federal processor, shows that the original application was received by the state's final deadline.

3. The federal processor provides verbal or written verification to LASFAC that the original application was received by the state's final deadline.

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

HISTORICAL NOTE: Promulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), repromulgated LR 27:1847 (November 2001).

§507. Final Deadline for Submitting Documentation of Eligibility

A. LASFAC will continue to process eligibility for both new and renewal applicants during each award year until May 1 of the spring term of that award year.

B. Students not determined eligible by May 1 of the spring term of the award year are ineligible to receive program funding that award year.

C. All documentation and certifications necessary to establish student eligibility including, but not limited to, high school and/or college transcripts and certifications, copies of Student Aid Reports, applicant confirmation forms, promissory notes and other documents which may be utilized in determining eligibility, must be received by LASFAC no later than May 1 of the award year. For example, to receive an award for the 1998-99 award year, LASFAC must have in its possession all documents relevant to establishing eligibility by May 1, 1999.

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

HISTORICAL NOTE: Promulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), repromulgated LR 27:1847 (November 2001).

§509. ACT Testing Deadline

A. The student must take the official ACT Test (including National, International, Military or Special test types) on or before the official April test date in the Academic Year (High School) in which the student graduates.

B. The student may substitute an equivalent score, as determined by the comparison tables used by LASFAC, on an equivalent Scholastic Aptitude Test (SAT) taken on or before the official April test date in the Academic Year (High School) in which the student graduates. In order to substitute an SAT score, the student must direct the College Board to send the score to LOSFA so that the score is electronically reported to LOSFA by the College Board within 45 days of

the final test date allowed by Section 509. SAT scores received in any other manner shall not be considered.

C. Final ACT Testing Deadline for Reduced Awards

1. Beginning with awards made for the 2000-2001 academic year and thereafter, if an applicant does not achieve a qualifying score on the ACT or on the Scholastic Aptitude Test for the TOPS Opportunity Award by the April national ACT test date in the year of the applicant's high school graduation, then the applicant's first qualifying score for any TOPS Award obtained on an authorized testing date after the April national ACT test date in the year of the applicant's high school graduation but prior to July 1 of the year of such graduation will be accepted. However, when granting an award to an applicant whose qualifying test score is obtained on an authorized testing date after the date of the applicant's high school graduation but prior to July 1 of the year of such graduation, the applicant's period of eligibility for the award shall be reduced by one semester, two quarters, or an equivalent number of units at an eligible institution which operates on a schedule based on units other than semesters or quarters. Except for an applicant who has qualified for a TOPS-Tech Award on or prior to the April national ACT test date, an applicant will not be allowed to use a test score obtained after the April national ACT test date to upgrade a TOPS Award.

2. Students who fail to achieve an ACT or SAT qualifying score by July 1st after high school graduation shall not be considered for an award.

D. For 1997 and 1998 high school graduates who have not previously taken an ACT test, the ACT Score shall include those scores obtained from a national ACT test taken not later than the October 1998 national test date.

E. Students who graduated during the 1998-1999 school year who are otherwise qualified for a TOPS award and who obtained a qualifying score on the ACT Test or the Scholastic Aptitude Test on an authorized testing date after the date of the student's graduation but prior to July 1, 1999 shall be considered to have met the requirements of section 509 A and B.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 26:1995 (September 2000), amended LR 26:1995 (September 2000), LR 27:36 (January 2001), LR 26:284 (March 2001), repromulgated LR 27:1847 (November 2001).

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

§701. General Provisions

A. Legislative Authority. Awards under the Louisiana Tuition Opportunity Program for Students (TOPS), the Opportunity, Performance and Honors Awards, are established as set forth in R.S. 17:3048.1 et seq., as amended.

B. Description, History and Purpose. The Tuition Opportunity Program for Students (TOPS) is a comprehensive, merit-based student aid program consisting of a series of components, with each component having its own eligibility criteria and titled award. The purpose of TOPS is to provide an incentive for Louisiana residents to academically prepare for and pursue post-secondary education in this state, resulting in an educated work force

enabling Louisiana to prosper in the global market of the future. The major components of TOPS are the Opportunity award, the Performance award and the Honors award.

C. The Opportunity, Performance and Honors awards, which will be funded for the 1998-99 academic year, combine former programs (Louisiana Tuition Assistance Plan [TAP] and the Louisiana Honors Scholarship Program) with a new component, the Honors award, to produce a comprehensive program of state scholarships.

D. The purposes of this program are to:

1. financially assist those students who are academically prepared to continue their education at a Louisiana post-secondary institution; and

2. encourage academic excellence; and

3. provide incentives for Louisiana high school graduates to pursue post-secondary education in this state.

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

1. 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 LSA-R.S. 17:3048.1.H, or §503.D or §509.C. Attending a Qualified Summer Session for which tuition is paid will count toward the eight semester limit for TOPS.

2. The TOPS Performance Award provides a \$400 annual stipend, prorated by two semesters, three quarters, or equivalent units in each Academic Year (College) or by four terms or equivalent units in 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 LSA-R.S. 17:3048.1.H, or §503.D or §509.C. 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.

3. The TOPS Honors Award provides an \$800 annual stipend, prorated by two semesters, three quarters, or equivalent units in each Academic Year (College) or by four terms or equivalent units in 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 LSA-R.S. 17:3048.1.H, or §503.D or §509.C. 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.

4. In lieu of the amount equal to tuition as provided by §701.E.1-3, students participating in the program provided by R.S. 29:36.1 for persons serving in the Louisiana National Guard shall receive the tuition exemption as provide therein, plus any applicable TOPS stipend and a sum of not more than \$150 per semester or \$300 annually for the actual cost of books and other instructional materials.

5. Students attending a regionally accredited independent college or university which is a member of the Louisiana Association of Independent Colleges and Universities (LAICU):

a. In an academic program receive an amount equal to the Weighted Average Award Amount, as defined in §301, plus any applicable stipend, prorated by two semesters, three quarters, or equivalent units in each Academic Year (College). The stipend will be paid for each Qualified Summer Session, semester, quarter, or equivalent unit for which tuition is paid. Attending a Qualified Summer Session for which tuition is paid will count toward the eight (8) semester limit for TOPS.

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

6. Recipients of TOPS Awards who are also beneficiaries of Student Tuition Assistance and Revenue Trust (START) Saving Program accounts, may apply the START disbursements to pay tuition, and any remaining tuition due may be paid by the TOPS award. Any balance of the TOPS award which remains after payment of the institution's charges, shall be credited to the student's account and treated in accordance with institutional policies. In the event the student's total aid, including Vocational Rehabilitation Awards, exceeds the Cost of Attendance, any federal loan aid included in the total aid package shall be reduced, then institutional and other aid in accordance with institutional practice, then the TOPS Award shall be reduced by the amount of any remaining over award.

7. Students funded under the Tuition Assistance Plan (TAP) or the Louisiana Honors Scholarship during the 1997-98 award year, who have maintained eligibility for the 1998-99 award year, shall be continued as TOPS Opportunity or Performance recipients, respectively.

8. Students funded under the Tuition Assistance Plan (TAP) or the Louisiana Honors Scholarship program during the 1997-98 award year, who lost eligibility due to their failure to maintain the required grade point average, shall be continued as TOPS Opportunity or Performance recipients, respectively, however, their eligibility for an award shall be suspended pending their satisfaction of the continuation requirements of §705.A.8 and 9. If a student satisfies the applicable requirements of §705.A.8 and 9 no later than the end of the 2000 Spring semester, he/she shall be eligible for reinstatement of the award in accordance with §705.B, for the semester following the satisfaction of the requirements of §705.A.8 and 9.

9. Prior recipients of the Louisiana Honors Scholarship who attend a campus of the Louisiana Technical College may continue to attend that institution as a recipient of the TOPS Performance Award.

10. Award Amounts shall be credited to a student's account with the institution and shall be used consistent with the institution's policy, and as directed by the student, to pay for those educational expenses included in the Cost of Attendance.

11. Students enrolled and attending more than one college or university at the same time shall be awarded as follows:

a. students attending two or more Louisiana public two or four-year colleges or universities shall receive a total amount not to exceed the amount that would be charged to the student by the school with the highest tuition among those at which the student is simultaneously enrolled.

b. students attending two or more regionally accredited independent colleges or universities which are members of the Louisiana Association of Independent Colleges and Universities (LAICU) shall receive a total amount not to exceed the Weighted Average Award Amount, as defined in §301.

c. students attending a combination of Louisiana public two or four-year colleges or universities and regionally accredited independent colleges or universities which are members of the Louisiana Association of Independent Colleges and Universities (LAICU) in an academic program shall receive a total amount not to exceed the amount that would be paid at the public school with the highest tuition among those at which the student is simultaneously enrolled or the Weighted Average Award Amount, whichever amount is greater.

F. Beginning with the 2000-2001 Academic Year (College) or Program Year (Non-academic Program) and continuing for the remainder of their program eligibility, students who meet each of the following requirements shall be awarded a stipend in the amount of two hundred dollars per Qualified Summer Session, semester, quarter, term, or equivalent unit for which tuition is paid which shall be in addition to the amount determined to equal the tuition charged by the public college or university attended or, if applicable, the amount provided for attendance at an eligible nonpublic college or university:

1. Prior to June 18, 1999, the student was determined by the administering agency to be eligible for a Performance Award, but who chose either by submission of a completed Award Confirmation Form or by not sending in a completed Award Confirmation Form to receive an Opportunity Award and was awarded an Opportunity Award, and

2. The student, once enrolled at an eligible institution, has continuously met all requirements to maintain continued state payment for a Performance Award.

G. Beginning with the 2000-2001 Academic Year (College) or Program Year (Non-academic Program) and continuing for the remainder of their program eligibility, students who meet each of the following requirements shall be awarded a stipend in the amount of four hundred dollars per Qualified Summer Session, semester, quarter, term, or equivalent unit for which tuition is paid which shall be in addition to the amount determined to equal the tuition charged by the public college or university attended or, if

applicable, the amount provided for attendance at an eligible nonpublic college or university:

1. Prior to June 18, 1999, the student was determined by the administering agency to be eligible for a Honors Award, but who chose either by submission of a completed Award Confirmation Form or by not sending in a completed Award Confirmation Form to receive an Opportunity Award and was awarded an Opportunity Award, and

2. The student, once enrolled at an eligible institution, has continuously met all requirements to maintain continued state payment for a Honors Award.

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

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

§703. Establishing Eligibility

A. To establish eligibility for a TOPS Opportunity, Performance or Honors Award, the student applicant must meet all of the following criteria:

1. Be a U. S. citizen, provided however, that a student who is not a citizen of the United States but who is eligible to apply for such citizenship shall be deemed to satisfy the citizenship requirement, if within 60 days after the date the student attains the age of majority, the student applies to become a citizen of the United States and obtains such citizenship within one year after the date of the application for citizenship. Those students who are eligible for U. S. citizenship and who otherwise qualify for a TOPS award, will continue to satisfy the citizenship requirements for a TOPS award for one year after the date of the student's application for citizenship, at which time, if the student has not provided proof of U.S. citizenship to the Office of Student Financial Assistance, the student's TOPS award will be suspended until such time as proof of citizenship is provided.

2. be a resident of Louisiana, as defined in §301 of LAC 28:IV and

3. submit the completed Free Application for Federal Student Aid (FAFSA) in accordance with §501:

a. by the applicable state aid deadline defined in §503; and

b. the dependents of Louisiana residents on active duty with the Armed Forces stationed outside of the state of Louisiana must enter a Louisiana post-secondary institution in that section of the FAFSA which asks the applicant to name the colleges he plans to attend; and

4. initially apply and enroll as a First-Time Freshman as defined in §301, unless granted an exception for cause by LASFAC, in an eligible college or university defined in §301, and:

a. if graduating from an eligible Louisiana public or BESE approved nonpublic high school or an eligible non-Louisiana high school or from an eligible out of country high school, enroll not later than the semester or term, excluding summer semesters or sessions, immediately following the first anniversary of the date that the student graduated from high school; or

b. if the student joins the United States Armed Forces within one year after graduating from an eligible Louisiana or an eligible non-Louisiana high school or from

an eligible out of country high school, enroll not later than the semester, excluding summer semesters or sessions, immediately following the fifth anniversary of the date that the student graduated from high school or within one year from the date of discharge, whichever is earlier; or

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

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

e. if a 1996-97 graduate who is an otherwise eligible applicant, enroll as a full-time student during fall, 1998;

f. High school graduates of 1997 and 1998 who are otherwise eligible applicants attending ineligible schools for the 1998-99 academic year, may request a waiver from LASFAC to enroll in an eligible school and accept the award no later than the 1999 Fall Semester by establishing to the satisfaction of LASFAC that his/her failure to accept the award for the 1998-99 academic year was due to circumstances which could not be changed without the student or his family experiencing a significant, negative financial impact or which establish that it was not otherwise feasible to enroll in an eligible school due to the timing of the notification to the student of his/her eligibility for a TOPS award. To apply for a waiver from LASFAC, the student must submit a written request addressed to the Office of Student Financial Assistance, Attention: Scholarship and Grant Division, and submit documentation which clearly establishes the hardship which would have resulted had the student not attended the out-of-state college or university.

g. all students must apply for an award by July 1st of the Academic Year (High School) in which they graduate to establish their initial qualification for an award, except as provided by section 503.D. For a student entitled to defer acceptance of an award under section 703.A.4.b. or d. that student must apply by July 1st of the Academic Year (High School) in which the student graduates, except as provided by section 503.D-:

i. and, if enrolling in an academic program, must also apply by July 1st prior to the Academic Year (College) in which the student intends to first accept the award, and by July 1st of every year of eligibility thereafter, except as provided in Section 501.B; or

ii. and, if enrolling in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, must also apply by the July 1st immediately after the start of the Program Year (Non-Academic Program) in which the student intends to first accept the award, and by July 1st of every year of eligibility thereafter, except as provided in Section 501.B.

5. a. graduate from an eligible public or nonpublic Louisiana high school or non-Louisiana high school defined in §1701.A.1, 2, or 3; and

i. at the time of high school graduation, an applicant must have successfully completed 16.5 units of high school course work constituting a core curriculum as follows:

Units	Course
1	English I
1	English II
1	English III
1	English IV
1	Algebra I (one unit) or Applied Algebra IA and IB (two units)
1	Algebra II
1	Geometry, Trigonometry, Calculus or comparable Advanced Mathematics
1	Biology
1	Chemistry
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (one unit combined) or Civics (one unit, nonpublic)
1	Fine Arts Survey; (or substitute two units performance courses in music, dance, or theater; or two units of studio art or visual art; or one elective from among the other subjects listed in this core curriculum)
2	Foreign Language, both units in the same language
1/2	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education (BESE); or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum); BESE has approved the following courses as computer related for purposes of satisfying the 1/2 unit computer science requirement for all schools (courses approved by BESE for individual schools are not included): Computer /Technology Applications (1 credit) Computer Architecture (1 credit) Computer/Technology Literacy (1/2 credit) Computer Science I (1 credit) Computer Science II (1 credit) Computer Systems and Networking I (1 credit) Computer Systems and Networking II (1 credit) Desktop Publishing (1/2 credit) Digital Graphics & Animation (1/2 credit) Multimedia Productions (1 credit) Web Mastering (1/2 credit) Independent Study in Technology Applications (1 credit)

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
Applied Algebra IA and IB	Applied Mathematics I and II

Algebra I, Algebra II and Geometry	Integrated Mathematics I, II and III
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III*
Chemistry	Chemistry Com
Fine Arts Survey	Speech Debate (2 units)
Western Civilization	European History
	*Applied Mathematics III was formerly referred to as Applied Geometry

iii. for purposes of satisfying the requirements of §703.A.5.a.i., above, in addition to the courses identified in §703.A.5.a.ii. the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses for students of the Louisiana School for Math, Science and the Arts:

Core Curriculum Course	Equivalent (Substitute) Course
English III	EN 210 Composition/Major Themes in Literature (1 unit)
English IV	any two of the following 1/2 unit courses: EN 311 Readings in Literature (at least one 311 course is a requirement) EN 311A American Literature EN 311B British Literature EN 302 Studies in the English Language EN 304 Topics in American and British Literature EN 312 Studies in Poetry EN 314 Readings in World Literature EN 322 Studies in Fiction EN 332 Introduction to Film Studies EN 342 Studies in Modern Drama EN 401 Creative Writing EN 402 Expository Writing EN 412 Studies in a Major Author - Shakespeare EN 422 Studies in a Major Author - Faulkner IS 314 Dramatic Text and Performance IS 315 Literature and Science IS 317 Evolution and Literature IS 318 Sacred Literature IS 411 English Renaissance
Algebra I (one unit)	Any combination of advanced math courses which equal one unit of course credit that are certified by the school to be equivalent of Algebra I
Algebra II (one unit)	Any combination of advanced math courses which equal one unit of course credit that are certified by the school to be equivalent of Algebra II MA 120 College Algebra (1 unit), or MA 121 Accelerated College Algebra (1/2 unit) and 1/2 unit of MA 203 Trigonometry
Physics	PH 110L Conceptual Physics (1 unit), or PH 210L General Physics (1 unit), or PH 250L Advanced Placement Physics (1 unit), or PH 310L Physics with Calculus
Biology II	BI 210L Advanced Placement Biology (1 unit), or BI 231L Microbiology (1/2 unit), and BI 241 Molecular and Cellular Biology (1/2 unit)

Civics (1/2 unit) and Free Enterprise (1/2 unit)	AH 243 American Government and Politics (1/2 unit), and SS 113 Economics (1/2 unit)
Western Civilization	EH 121 Ancient and Medieval History (1/2 unit) and EH 122 Modern History (1/2 unit)

or

b. graduate from an eligible public or nonpublic Louisiana high school or non-Louisiana high school defined in §1701.A.3. and have completed the core curriculum defined in §703.A.5.a.i., unless the following exceptions apply:

i. for students in graduating classes prior to the year 2004, one or more core units are waived based upon a sworn affidavit by the principal or headmaster or authorized designee that the course was not available to the student at the school attended;

ii. for a Disabled Student or an Exceptional Child, as defined in §301, who have met the criteria set forth in §2115, one or more core units are waived; or

c. graduate from an out-of-state public or private high school approved by the chief state and territorial school officer (or the state agency which is the equivalent of Louisiana's Board of Elementary and Secondary Education) of the state in which the school is located (See §1701.A.4.); or

d.i. successfully complete at the twelfth grade level a home study program approved by BESE; or

ii. if ever was enrolled in a Louisiana public or nonpublic school approved by BESE, successfully completed at least the eleventh and twelfth grade levels of a home study program approved by BESE; and

iii. if having previously attended a Louisiana public high school, a Louisiana nonpublic high school, or an approved non-Louisiana high school, has provided LASFAC with certification by the previously attended high school that said student was in good standing at the time the student last attended such school; and

e. graduate from a high school defined in §1701.A.5 or successfully complete at the twelfth grade level a home study program approved by BESE and conducted outside the United States and its territories;

f. successfully complete a minimum of ten units in honors curriculum courses graded on a 5.0 scale at and graduate from an eligible public or nonpublic Louisiana high school or non-Louisiana high school defined in §1701.A.1, 2, or 3. and have completed the core curriculum defined in §703.A.5.a.i. and

6. Have achieved an ACT Score, as defined in §301 of at least:

a. if qualifying under the terms of §703.A.5.a or b;
i. the state's reported prior year ACT composite average, rounded, but never less than 19 for the Opportunity Award; or

ii. a 23 for the Performance Award; or

iii. a 27 for the Honors Award; or

b. if qualifying under §703.A.5.c or d;
i. the state's reported prior year average plus 3 points, rounded, but never less than 22 for the Opportunity Award; or

ii. a 26 for the Performance Award; or

iii. a 30 for the Honors Award; and

c. if qualifying under §703.A.5.e; which is limited to the Opportunity Award only; the state's reported prior year average plus 3 points, rounded, but never less than 22;

d. if qualifying under §703.A.5.f; which is limited to the Performance Award only; a 24; and

7. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC; and

8. not have a criminal conviction, except for misdemeanor traffic violations, and if the student has been in the United States Armed Forces and has separated from such service, has received an honorable discharge or general discharge under honorable conditions; and

9. agree that awards will be used exclusively for educational expenses.

B. Students qualifying:

1. under §703.A.5.a and b, must have attained a cumulative high school grade point average, based on a 4.00 maximum scale, of at least:

a. a 2.50 for the Opportunity Award; or

b. a 3.50 for the Performance or Honors Awards.

2. under §703.A.5.f and graduating in the 2000-2001, 2001-2002, 2002-2003 school years, must have attained a cumulative high school grade point average, based on a 4.00 maximum scale, of at least a 3.00 for the Performance Award.

C. Students qualifying under §703.A.5.a and b, for the Performance Award only, must be certified as graduating in the top 5 percent of the 1997-98 high school graduating class, as defined in LAC 28:IV §1703.B.4, in lieu of completing the core curriculum.

D. Students who have qualified academically for more than one of the TOPS awards, excluding the TOPS Teacher Award, shall receive the award requiring the most rigorous eligibility criteria.

E. Students graduating in academic years 1996-97 and 1997-98 who qualify under §703.A.5.b.iv, (graduates who did not complete one year of high school foreign language), must provide LASFAC a copy of their college transcript showing completion of one or more foreign language courses. Eligibility for an award is not established until receipt of the transcript verifying that the foreign language credit was earned and the student shall first be awarded for the semester or term following that in which eligibility was established. Under this provision, eligibility must be established not later than the conclusion of the 1998-99 award year.

F. In the event that a student applicant was determined ineligible by the administering agency for an award under this program or for a higher level award than that initially offered the student and such determination was based upon data that was subsequently found to be in error, then the student's eligibility shall be reevaluated based upon the corrected data and, if found eligible, the student shall be offered the award for which he qualifies. The award shall begin with the academic year during which the reevaluation occurred and eligibility first established. The requirement that a student be a first-time freshman shall be waived for those students who are determined eligible under these circumstances subsequent to the commencement of their post-secondary education.

G Early Admission to College

1. A student who enters an Eligible College or University under an early admissions program prior to high school graduation will be eligible for an appropriate award under the following conditions:

a. The college early admissions program is one that meets the requirements of the Louisiana Department of Education as set forth in the latest edition of Bulletin 741.

b. The student has satisfied all core curriculum requirements not completed in high school by making passing scores on equivalent college courses.

c. The college courses taken to satisfy core curriculum requirements and the grades reported on those courses are reflected in the student's official high school records. The student is awarded a high school diploma and the grade point average and core curriculum are certified to LASFAC by the high school in the same manner as that of other high school graduates.

d. The student's core curriculum requirements are completed no later than the conclusion of the first two semesters or three quarters of college attendance following entrance into the college early admissions program.

2. A student who enters an Eligible College or University early admissions program prior to graduation from high school shall be considered a First-Time Freshman, as defined in §301, not earlier than the first semester following the Academic Year (High School) in which the student graduated. A student who enters an early admissions program will remain eligible for a TOPS award until the semester or term, excluding summer semesters or sessions, immediately following the first anniversary of the date that the student actually graduated.

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

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

§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, 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

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

3. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC; and

4. not have a criminal conviction, except for misdemeanor traffic violations and if the student has been in the United States Armed Forces and has separated from such service, has received an honorable discharge or general discharge under honorable conditions; and

5. agree that awards will be used exclusively for educational expenses; and

6. continue to enroll and accept the TOPS award as a full-time undergraduate student in an Eligible College or University defined in §301, and maintain an enrolled status throughout the academic term, unless granted an exception for cause by LASFAC; and

7. minimum academic progress:

a. in an academic program at an Eligible College or University, by the end of each Academic Year (College), earn a total of at least 24 college credit hours as determined by totaling the earned hours reported by the institution for each semester or quarter in the Academic Year (College). These hours shall include remedial course work required by the institution, but shall not include hours earned during Qualified Summer Sessions, summer sessions nor intersessions nor by advanced placement course credits. Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility, or

b. in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree at an Eligible College or University, maintain Steady Academic Progress as defined in §301 and by the end of the spring term, earn a cumulative college grade point average of at least 2.50 on a 4.00 maximum scale. Unless granted an exception for cause by LASFAC, failure to maintain Steady Academic Progress and to earn a 2.50 at the conclusion of the spring term will result in permanent cancellation of the recipient's eligibility; and

8. maintain Steady Academic Progress as defined in §301; and

9. maintain at an Eligible College or University, by the end of the spring semester, quarter, or term, a cumulative college grade point average (GPA) on a 4.00 maximum scale of at least:

a. a 2.30 with the completion of less than 48 credit hours, a 2.50 after the completion of 48 credit hours, for continuing receipt of an Opportunity Award, if enrolled in an academic program; or

b. a 2.50, for continuing receipt of an Opportunity Award, if enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree; and

c. a 3.00 for continuing receipt of either a Performance or Honors Award; and

10. has not enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree after having received a vocational or technical education certificate or diploma, or a non-academic undergraduate degree; and

11. has not received a baccalaureate degree; and

12. has not been enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree for more than two years.

B. Students failing to meet the requirements listed in §705.A.8 or §705.A.9.a or b may have their tuition awards reinstated upon the lifting of academic probation and/or attainment of the required GPA, if the period of ineligibility did not persist for more than two years from the date of loss of eligibility. Students who fail to meet the continuation requirements of §705.a.9.b., but who meet the continuation

requirements of §705.A.9.a., shall no longer be eligible for the stipend authorized for the Performance and Honors Awards, but shall continue to receive the award amount for the Opportunity Award.. To be reinstated, the student must request reinstatement for the semester following the lifting of academic probation and/or the achievement of the required GPA by submitting a written request to the Office of Student Financial Assistance, Attention: Scholarship and Grant Division, and enclosing a certified original transcript from the school attended. Students who are reinstated to a Performance or Honors Award are no longer eligible to receive the annual stipends that normally accompany these awards.

C. In the event the administering agency determines that an ineligible student has received an award as the result of an administrative error or erroneous information provided by the student or the student's parent(s) or legal guardian or incorrect certification from the student's high school, the student's eligibility for the award shall be terminated and no further awards shall be made to the ineligible student. If an ineligible student has received an award due to an administrative error or incorrect certification, the administering agency will not pursue recoupment from the student of funds that were awarded. If an erroneous award has been made and the administering agency determines that the award was made based upon incorrect information submitted by the student or the student's parent(s) or legal guardian, the administering agency may seek reimbursement from the student, the student's parent(s) or legal guardian, and if it is further determined that the award was made due to an intentional misrepresentation by the student, the student's parent(s) or legal guardian, then the administering agency shall refer the case to the Attorney General for investigation and prosecution. If a student or the student's parent(s) or legal guardian is suspected of having intentionally misrepresented the facts which were provided to the administering agency and used by it to determine the eligibility of the student for the program and the administering agency has referred the case to the Attorney General for investigation, then the student shall remain ineligible for future award consideration pending an outcome of said investigation which is favorable to the student.

D. It is the student's responsibility to ensure that all requirements necessary to maintain award eligibility are completed. The Office of Student Financial Assistance shall only consider the official report of grades and hours earned which are received from the school attended. Students should be aware that individual school policies may affect the reporting of grade point average and hours earned for the academic year and accordingly, should become familiar with these policies.

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

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

Chapter 8. TOPS-TECH Award

§801. General Provisions

A. Legislative Authority. The TOPS-TECH Award was created by Act of the 1998 First Extraordinary Session of the Louisiana Legislature.

B. Description, History and Purpose. The TOPS-TECH award is a merit based scholarship program for Louisiana residents pursuing skill, occupational or technical training at Eligible Colleges and Universities that offer a vocational or technical education certificate or diploma program or a non-academic undergraduate degree. The purpose of TOPS-TECH is to provide an incentive for qualified Louisiana residents to prepare for and pursue technical positions in Louisiana.

C. TOPS-TECH shall be first awarded beginning with the 1998-99 academic year to 1998 high school graduates and graduates in subsequent years.

D. TOPS-TECH provides an Award as follows:

1. For any student attending an eligible public college or university that does not offer an academic undergraduate degree at the baccalaureate level or higher, the amount shall equal the actual cost of tuition.

2. For any student attending an Eligible College or University other than as provided for in Subsection D.1 above, the amount shall be the Average Award Amount (TOPS-Tech) defined in §301.

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 24:1904 (October 1998), LR 26:1997 (September 2000), LR 27:1854 (November 2001).

§803. Establishing Eligibility

A. To establish eligibility for the TOPS-TECH Award, the student applicant must meet the following criteria:

1. be a U. S. citizen, provided however, that a student who is not a citizen of the United States but who is eligible to apply for such citizenship shall be deemed to satisfy the citizenship requirement, if within 60 days after the date the student attains the age of majority, the student applies to become a citizen of the United States and obtains such citizenship within one year after the date of the application for citizenship. Those students who are eligible for U. S. citizenship and who otherwise qualify for a TOPS award, will continue to satisfy the citizenship requirements for a TOPS award for one year after the date of the student's application for citizenship, at which time, if the student has not provided proof of U.S. citizenship to the Office of Student Financial Assistance, the student's TOPS award will be suspended until such time as proof of citizenship is provided;

2. be a resident of Louisiana, as defined in §301 of LAC 28:IV; and

3. submit the completed initial Free Application for Federal Student Aid (FAFSA) or renewal FAFSA by the applicable state aid deadline in accordance with the requirements of section 503; and

4. initially apply and enroll as a First-Time Freshman as defined in §301, unless granted an exception for cause by LASFAC, in an eligible post-secondary college or university defined in §301, and:

a. if graduating from an eligible Louisiana or an eligible non-Louisiana high school or from an eligible out of country high school, enroll not later than the semester or term, excluding summer semesters or sessions, immediately following the first anniversary of the date that the student graduated from high school; or

b. if the student joins the United States Armed Forces within one year after graduating from an eligible Louisiana or an eligible non-Louisiana high school or from an eligible out of country high school, enroll not later than the semester, excluding summer semesters or sessions, immediately following the fifth anniversary of the date that the student graduated from high school or within one year from the date of discharge, whichever is earlier; or

c. if the student is eligible under the provisions of §803.A.5.d, enroll not later than the semester or term, excluding summer semesters or sessions, immediately following the first anniversary of the date the student completed the home study program, which is deemed to be May 31st; or

d. if the student is eligible under the provisions of §803.A.5.d and has joined and is on active duty with the United States Armed Forces within one year of the date the student completed the home study program, which is deemed to be May 31st, enroll not later than the semester or term, excluding summer semesters or sessions, immediately following the fifth anniversary of the date the student completed the home study program, or within one year from the date of discharge, whichever is earlier; and

5. graduate from:

a. an eligible public or nonpublic high school or non-Louisiana high school defined in §1701.A.1, 2 and 3; or

b. an *out-of-state high school* defined in §1701.A.4; or

c. an out of country high school defined in §1701.A.5; or

d.i. successfully complete at the twelfth grade level a home study program approved by BESE; or

ii. if ever was enrolled in a Louisiana public or nonpublic school approved by BESE, successfully completed at least the eleventh and twelfth grade levels of a home study program approved by BESE; and

iii. if having previously attended an eligible high school defined in §1701A1, 2, 3, 4, or 5, has provided LASFAC with certification by the previously attended high school that said student was in good standing at the time the student last attended such school;

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

a. have successfully completed one of the following core curriculums:

i. 16.5 units of high school course work constituting the TOPS core curriculum as defined in §703.A.5.; or

ii. For students graduating in the 2000-2001 school year and thereafter, the high school course work constituting the following TOPS-TECH core curriculum:

Core CurriculumCTOPS-TECH Award:

Units	Course
1	English I
1	English II
1	English III
1	English IV or substitute one unit of Business English.
1	Algebra I; or both Algebra I, Part I and Algebra I, Part 2; or both Applied Mathematics I and Applied Mathematics II.
2	Geometry, Applied Mathematics III, Algebra II, Financial Mathematics, Advanced Mathematics I, Advanced Mathematics II, Discrete Mathematics, or Probability and Statistics (two units). Integrated Mathematics I, II, and III may be substituted for Algebra I, Geometry and Algebra II, and shall be considered the equivalent of the three required math units.
1	Biology.
1	Chemistry or Applied Chemistry.
1	Earth Science, Environmental Science, Physical Science, Integrated Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology.
1	American History.
1	World History, Western Civilization, or World Geography.
1	Civics and Free Enterprise (one unit combined) or Civics (one unit, nonpublic).
Remaining core courses shall be selected from one of the following options:	
Option 1	Total of 17 units.
1	Fine Arts Survey or substitute two units of performance courses in music, dance, or theater; or substitute two units of visual art courses; or substitute two units of studio art courses; or a course from the career and technical program of studies that is approved by the BESE (must be listed under the Vocational Education Course Offerings in Bulletin 741 or the updates to Bulletin 741); or substitute one unit as an elective from among the other subjects listed in this core curriculum.
2	Foreign Language, Technical Writing, Speech I or Speech II.
1	One unit from the secondary computer education program of studies that is approved by the BESE.
or	
Option 2	Total of 19 Units
4	In a career major comprised of a sequence of related specialty courses. In order for a student to use this option, the courses for the career major must be approved by BESE.
1	Credit in a basic computer course.
1	In related or technical fields. A related course includes any course which is listed under the student's major. A technical course includes computer courses and courses listed as Technology Education courses listed under the Vocational Education Course Offerings in Bulletin 741 or the updates to Bulletin 741.

or

iii. For students graduating through the 2000-2001 school year, the TOPS-TECH core curriculum as follows:

Core CurriculumCTOPS-TECH Award:

Units	Course
1	English I
1	English II
1	English III
1	English IV or Business English
1	Algebra I (one unit) or Applied Algebra IA and IB (two units)
1	Algebra II

1	Geometry or Applied Geometry, Trigonometry, Calculus or comparable Advanced Mathematics
1	Biology
1	Chemistry or Applied Physics
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II or Physics for Technology
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (one unit combined) or Civics (one unit, non-public)
1	Fine Arts Survey or any approved vocational course in the areas of Agriscience, Business Education, Family and Consumer Science, Health Occupations, Marketing Education, Technology Education, or Trade and Industrial Education; (or substitute two units of performance courses in music, dance or theater; or two units of studio art or two units of visual art courses; or one elective from among the other subjects listed in this core curriculum)
2	In a single Foreign Language. (one unit for students graduating from high school during the 1996-97 and 1997-98 school years.) or Technical Writing, Speech I or Speech II (two units).
1/2	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education; or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum)

b. for students in graduating classes prior to 2004, core units may be waived upon sworn affidavit by the principal or headmaster or authorized designee that the course was not available to the student at the school attended;

7. have achieved an ACT Score, as defined in §301, of at least:

a. if qualifying under §803.A.5.a, an ACT composite score of at least 17;

b. if qualifying under §803.A.5.b, c, or d, an ACT composite of at least 20; and

8. if qualifying under §803.A.5.a, have attained a cumulative high school grade point average, based on a 4.00 maximum scale, of at least 2.50; and

9. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC; and

10. not have a criminal conviction, except for misdemeanor traffic violations, and if the student has been in the United States Armed Forces and has separated from such service, has received an honorable discharge or general discharge under honorable conditions; and

11. agree that awards will be used exclusively for educational expenses.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:1898 (October 1998), amended LR 24:2237 (December 1998), LR 25:1795 (October 1999), LR 26:65, 67 (January 2000), LR 26:1602 (August 2000), LR 26:1997 (September 2000), LR 26:2269 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:1854 (November 2001).

§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, unless reduced as required by section 503.D; and

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

3. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC; and

4. not have a criminal conviction, except for misdemeanor traffic violations and if the student has been in the United States Armed Forces and has separated from such service, has received an honorable discharge or general discharge under honorable conditions; and

5. agree that awards will be used exclusively for educational expenses; and

6. continue to enroll and accept the TECH award as a full-time student in an eligible college or university defined in §301, and maintain an enrolled status throughout the school term, unless granted an exception for cause by LASFAC; and

7. has not received a vocational or technical education certificate or diploma, or a non-academic undergraduate degree, or a baccalaureate degree; and

8. has maintained Steady Academic Progress as defined in §301; and

9. maintain, by the end of the spring term, a cumulative college grade point average of at least 2.50 on a 4.00 maximum scale.

B. Students failing to meet the requirements listed in §805.A.8 and 9 may have their tuition awards reinstated upon achieving Steady Academic Progress, as defined in §301, and the attainment of the required grade point average, if the period of ineligibility did not persist for more than one year from the date of loss of eligibility

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

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

Chapter 9. TOPS Teacher Award

§901. General Provisions

A. Legislative Authority. The TOPS Teacher Award Program was created by Act 476, of the 1997 Regular Session of the Louisiana Legislature and amended by Act 165 of the 1998 First Extraordinary Session of the Louisiana Legislature. This bill amended and reenacted R.S. 17:3042.1.A(3) and (4), B, C, and D, and 3042.2.A and B; reenacted R.S. 17:3042.1.A(5) and (6) and 3042.8; and renamed Chapter 20-B of Title 17 of the Louisiana Revised Statutes of 1950.

B. Description, History and Purpose. The Tuition Opportunity Program for Students (TOPS) Teacher Award:

1. annually provides approximately 90 competitively awarded educational loans to residents of Louisiana who commit to teach at the elementary or secondary school level in Louisiana. When the recipient teaches at an approved school in Louisiana, the loans are forgiven in the ratio of one year of loan forgiveness for each year of teaching, or two years of loan forgiveness for each year of teaching in an

elementary or secondary school which is located in an economically disadvantaged region of the state as defined by the U. S. Department of Education;

2. was first funded for the 1997-98 award year;

3. was created to provide an incentive for Louisiana's best and brightest students to become tomorrow's classroom teachers and to provide an incentive that will attract highly qualified teachers in mathematics and chemistry at the elementary and secondary school levels.

C. Award Amounts

1. Loans are made in the amount of up to \$6,000 per award year for mathematics and chemistry majors.

2. Loans are made in the amount of up to \$4,000 per year for teacher education majors other than those listed in §901.C.1.

3. Recipient may receive a maximum of four years of funding.

4. Recipients receive one half of the annual award (\$3,000 or \$2,000, respectively) at the beginning of the fall and spring terms.

5. Recipients may, in conjunction with the Teachers Award, receive another TOPS Award.

6. In the event the student's total aid, including Vocational Rehabilitation Awards, exceeds the Cost of Attendance, any federal loan aid included in the total aid package shall be reduced, then institutional and other aid in accordance with institutional practice, then the TOPS-Teacher Award shall be reduced by the amount of any remaining over award.

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

HISTORICAL NOTE: Promulgated LR 24:638 (April 1998), amended LR 24:1907 (October 1998), amended LR 26:69 (January 2000), LR 27:1856 (November 2001).

§903. Establishing Eligibility

A. To establish eligibility, the student applicant must meet all of the following criteria:

1. Be a U. S. citizen, provided however, that a student who is not a citizen of the United States but who is eligible to apply for such citizenship shall be deemed to satisfy the citizenship requirement, if within sixty (60) days after the date the student attains the age of majority, the student applies to become a citizen of the United States and obtains such citizenship within one year after the date of the application for citizenship. Those students who are eligible for U. S. citizenship and who otherwise qualify for a TOPS award, will continue to satisfy the citizenship requirements for a TOPS award for one year after the date of the student's application for citizenship, at which time, if the student has not provided proof of U.S. citizenship to the Office of Student Financial Assistance, the student's TOPS award will be suspended until such time as proof of citizenship is provided.

2. be a resident of Louisiana, as defined in §301 of LAC 28:IV for at least two years prior to July 1 of the Award Year; and

3. annually submit the completed Free Application for Federal Student Aid (FAFSA) or Renewal FAFSA, whichever is applicable to the student, by the state aid deadline defined in §503; and

4. either;

a. graduate from a Board of Elementary and Secondary Education (BESE)-approved, provisionally-

approved, or probationally-approved public or nonpublic high school; and

i. at the time of high school graduation, have successfully completed 16.5 units of high school course work constituting a core curriculum as defined in §703.A.1.a of LAC 28:IV; and

ii. at the time of high school graduation, have attained a composite score on the ACT Test or the Scholastic Aptitude Test (SAT) which is, or is equivalent to, at least a 23 on the 1990 version of the ACT; and

iii. graduate with a cumulative high school grade point average of at least a 3.25, calculated on a 4.00 scale, for all courses attempted; or

b. if by the end of June in the year of application, the student will have completed 24 or more but less than 48 hours of graded college credit, have at least a 3.25 cumulative college grade point average on a 4.00 scale; or

c. if by the end of June in the year of application, the student will have completed 48 or more hours of graded college credit, have at least a 3.00 cumulative college grade point average on a 4.00 scale; or

d. have received a baccalaureate degree from an accredited college or university and have a cumulative undergraduate grade point average of at least 3.00 calculated on a 4.00 scale; or

e. have received at least a master's degree from an accredited college or university; and

5. complete and submit such documentary evidence as may be required by LASFAC by the deadline specified in §503; and

6. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC; and

7. not have a criminal conviction, except for misdemeanor traffic violations; and

8. agree that the award will be used exclusively for educational expenses; and

9. enroll during the fall term at an eligible college or university, as defined in §1901, as a full-time student, as defined in §301, in a degree program or course of study leading to a degree in education or an alternative program leading to regular certification as a teacher at the elementary or secondary level in mathematics or chemistry.

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

HISTORICAL NOTE: Promulgated LR 24:637 (April 1998), amended LR 24:1906 (October 1998), LR 26:68 (January 2000), LR 26:2269 (October 2000), LR 27:284 (March 2001), repromulgated LR 27:1857 (November 2001).

§905. Selection Criteria

A. Recipients are competitively selected for the award based upon the merit rank score computed and assigned to each eligible applicant. The formula for computing the merit rank score is defined in §301.

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

HISTORICAL NOTE: Promulgated LR 24:638 (April 1998), amended LR 24:1907 (October 1998), repromulgated LR 27:1857 (November 2001).

§907. Maintaining Eligibility

A. To continue receiving the TOPS Teacher Award, recipients must meet all of the following criteria:

1. have received less than four years or eight semesters of TOPS Teacher Awards; and

2. by the end of each academic year, earn a total of at least 24 hours college credit during the fall and spring semesters or fall, winter and spring quarters, as determined by totaling the earned hours reported by the institution for each semester in the academic year. These hours shall not include remedial course work nor hours earned during summer sessions or intersessions or by advanced placement course credits; (See also §705.D) and

3. achieve a cumulative GPA of at least a 3.00 calculated on a 4.00 scale at the end of each academic year; and

4. maintain Steady Academic Progress as defined in §301; and

5. continue to enroll each subsequent semester or quarter as a full-time student in a degree program or course of study leading to a degree in education or alternative program leading to regular certification as a teacher at the elementary or secondary level, and maintain an enrolled status throughout the academic term, unless granted an exception for cause by LASFAC; or

6. enter a program approved by the State Board of Elementary and Secondary Education (BESE) which leads to a degree in education or to regular certification as a teacher as soon as sufficient credits have been earned to do so; and

7. annually apply for federal and state student aid by completing the FAFSA or Renewal FAFSA, whichever is applicable to the student, by the state deadline; and

8. have no criminal convictions, except for misdemeanor traffic violations; and

9. be in compliance with the terms of all other federal and state aid programs which the student may be receiving and which are administered by LASFAC.

B. Recipients who do not maintain eligibility under the provisions of §907.A.3 and 4, may be reinstated upon attainment of the required GPA and achieving the GPA required for Steady Academic Progress, as defined in §301, provided the period of ineligibility did not exceed two years.

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

HISTORICAL NOTE: Promulgated LR 24:638 (April 1998), amended LR 24:1907 (October 1998), LR 25:1092 (June 1999), LR 26: (January 2000), LR 26: (April 2000), repromulgated LR 27:1857 (November 2001).

§909. Completion of Promissory Note and Acceptance of Award

A. Prior to receiving an award, the recipient must agree to the terms and conditions contained in the TOPS Teacher Award Program Promissory Note by completing the form and returning it to LASFAC by the specified deadline. The promissory note obligates the recipient to teach one year for each year of funding received; or, if teaching in a school located in an *economically disadvantaged region* of the state, as defined by the U. S. Department of Education, teach one year for every two years of funding received, or repay the funds received, plus accrued interest and any collection costs incurred.

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

HISTORICAL NOTE: Promulgated LR 24:638 (April 1998), amended LR 24:1907 (October 1998), amended LR 26:69 (January 2000), repromulgated LR 27:1858 (November 2001).

§911. Discharge of Obligation

A. The loan may be discharged by teaching for the required period of obligation, by monetary repayment or by cancellation.

B. Discharging the loan by teaching fulfillment is accomplished by:

1. within two years of the date of certification as a teacher, perform service as a full-time classroom teacher in a Louisiana Board of Elementary and Secondary Education (BESE) approved, provisionally approved, or probationally-approved elementary or secondary school;

2. each year of full-time service as a teacher will fulfill an equivalent period of funding. However, if teaching in an elementary or secondary school which is located in an economically disadvantaged region of the state, as defined by the U. S. Department of Education, one year of teaching will fulfill two years of funding;

3. the first two full semesters of full-time teaching will be applied toward the earliest dated disbursement not previously paid under §911.C, the second two full semesters the next earliest dated disbursement, and continuing until all disbursements have been fulfilled;

4. teaching to discharge the loan must be completed within six years from the date of certification as a teacher.

C. Discharging the loan by Monetary Repayment. Recipients who elect not to discharge the obligation by teaching and who are not eligible for discharge by cancellation must repay the loan principal plus accrued interest and any collection costs incurred according to the following terms and conditions:

1. interest will accrue on the outstanding principal at the rate of 8 percent per annum;

2. interest on each disbursement will accrue from the date of disbursement until repaid, canceled or fulfilled. Accrued interest will be capitalized when the recipient enters repayment status;

3. repayment status. The recipient enters repayment status the first of the month following:

a. determination by LASFAC that the recipient cannot discharge the loan by teaching within the required time period;

b. the date the recipient notifies LASFAC that monetary repayment is desired; or

c. six months after LASFAC determines that the recipient is no longer pursuing a degree program or course of study leading to a degree in education or alternative program leading to regular certification as a teacher at the elementary or secondary school level;

4. the amount to be repaid annually will be the greater of:

a. the amount necessary to repay the capitalized loan principal within 10 years; or

b. \$1,200 per year or the unpaid balance, whichever is less;

5. recipients in repayment status may have their payments deferred in accordance with §2105.B., Deferment of Repayment Obligation;

6. during the period of time a recipient is in deferment status, a recipient is not required to make repayments and interest does not accrue;

7. the period of time for completion of repayment will be extended by a period of time equal to the length of time the recipient is in deferment status.

D. Cancellation. The obligation to repay any remaining unpaid balance of the TOPS Teacher Award shall be canceled in the event either of the following occurs:

1. upon submission to LASFAC of a sworn affidavit from a qualified physician that the recipient is precluded from gainful employment because of a complete and permanent medical disability or condition; or

2. upon submission to LASFAC of a death certificate or other evidence conclusive under state law, that the recipient is deceased.

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

HISTORICAL NOTE: Promulgated LR 24:638 (April 1998), amended LR 24:1907 (October 1998), amended LR 26:69 (January 2000), LR 26:1603 (August 2000), LR 27:1858 (November 2001).

Chapter 11. Rockefeller State Wildlife Scholarship

§1101. General Provisions

A. Legislative Authority. The Louisiana State Wildlife Scholarship Program was created and amended by the following Acts of the Louisiana Legislature:

1. Act 807 of the 1980 Regular Legislative Session;
2. Act 849 of the 1987 Regular Legislative Session;
3. Act 707 of the 1989 Regular Legislative Session.

B. Description, History and Purpose

1. The Rockefeller State Wildlife Scholarship Program was established in 1980 and is funded with dedicated monies and offers competitively awarded scholarships valued at \$1,000 per academic year to both undergraduate and graduate students majoring in forestry, wildlife, or marine science as it pertains to wildlife;

2. In accepting the Rockefeller State Wildlife Scholarship, the student agrees to attain a degree in one of the required fields at a Louisiana public college or university offering such degrees. If the student fails to successfully complete an eligible course of study, as per the agreement made between LASFAC and the student, the funds must be repaid with interest.

C. Award Amounts

1. The annual award is \$1,000.
2. The cumulative maximum award is \$7,000 for up to five years of undergraduate and two years of graduate study.
3. The award is disbursed at the rate of \$500 each fall and spring term.

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

HISTORICAL NOTE: Adopted by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 17: 959 (October 1991), amended LR 22:338 (May 1996). Promulgated LR 24:639 (April 1998), amended LR 24:1908 (October 1998). Repromulgated LR 27:1959 (November 2001).

§1103. Establishing Eligibility

To establish eligibility, the student applicant must meet all of the following criteria:

1. be a U.S. citizen or national or eligible noncitizen; and
2. be a resident of Louisiana, as defined in §301 of LAC 28:IV for at least one year prior to July 1 of the Award Year; and
3. submit the completed Free Application for Federal Student Aid (FAFSA) or the Renewal FAFSA, whichever is

applicable to the student, by final deadline set forth in §503.B.; and

4. complete and submit such documentary evidence as may be required by LASFAC; and

5. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC; and

6. not have a criminal conviction, except for misdemeanor traffic violations; and

7. agree that award proceeds will be used exclusively for educational expenses; and

8. be enrolled or accepted for enrollment as a full-time undergraduate or graduate student at a Louisiana public college or university majoring in forestry, wildlife or marine science, with the intent of obtaining a degree from a Louisiana public college or university offering a degree in one of the three specified fields; and

9.a. must have graduated from high school, and if at the time of application the student applicant has earned less than 24 hours of graded college credit since graduating from high school, have earned a minimum cumulative high school grade point average of at least 2.50 calculated on a 4.00 scale for all courses completed in grades 9 through 12 and have taken the ACT or SAT and received test score results; or

b. if, at the time of application, the student applicant has earned 24 or more hours of college credit, then the applicant must have at least a 2.50 cumulative college grade point average.

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

HISTORICAL NOTE: Promulgated LR 24:639 (April 1998), amended LR 24:1908 (October 1998), repromulgated LR 27:1859 (November 2001).

§1105. Selection Criteria

A. Recipients are competitively selected for an award based upon the merit rank score computed and assigned to each eligible applicant. The formula for computing the merit rank score is defined in §301.

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

HISTORICAL NOTE: Promulgated LR 24:640 (April 1998), amended LR 24:1909 (October 1998), repromulgated LR 27:1859 (November 2001).

§1107. Maintaining Eligibility

A. To continue receiving the Rockefeller State Wildlife Scholarship, recipients must meet all of the following criteria:

1. have received the scholarship for not more than seven academic years (five undergraduate and two graduate); and

2. at the close of each academic year (ending with the spring semester or quarter), have earned at least 24 hours total credit during the fall, winter and spring terms at an institution defining 12 semester or eight quarter hours as the minimum for full-time undergraduate status or earn at least 18 hours total graduate credit during the fall, winter and spring terms at an institution defining nine semester hours as the minimum for full-time graduate status unless granted an exception for cause by LASFAC; and

3. achieve a cumulative grade point average of at least 2.50 at the end of the first academic year and each academic year thereafter; and

4. continue to enroll each subsequent semester or quarter (excluding summer sessions and intersessions) at the same institution unless granted an exception for cause and/or approval for transfer of the award by LASFAC; and

5. continue to pursue a course of study leading to an undergraduate or graduate degree in wildlife, forestry or marine science.

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

HISTORICAL NOTE: Promulgated LR 24:640 (April 1998), amended LR 24:1909 (October 1998), repromulgated LR 27:1859 (November 2001).

§1109. Completion of Promissory Note and Acceptance of Award

A. Prior to receiving an award, the recipient must agree to the terms and conditions contained in the Rockefeller State Wildlife Scholarship Program Promissory Note (LASFAC-Form RS02), by completing the form and returning it to LASFAC by the specified deadline. The promissory note obligates the recipient to obtain a Wildlife, Forestry or Marine Science degree or repay the scholarship funds received, plus accrued interest and any collection costs incurred.

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

HISTORICAL NOTE: Promulgated LR 24:640 (April 1998), amended LR 24:1909 (October 1998), repromulgated LR 27:1860 (November 2001).

§1111. Discharge of Obligation

A. The loan obligation may be discharged by graduation in an eligible major, monetary repayment or cancellation.

B. Graduation In an Eligible Major. Awards to undergraduates are discharged by the recipient's attainment of a bachelor's degree; graduate awards are discharged by attainment of a master's or doctorate degree in wildlife, forestry or marine science.

C. Monetary Repayment. Recipients who do not discharge the obligation by graduating in an eligible major and who are not eligible for discharge by cancellation must repay the loan principal, plus accrued interest and any collection costs incurred in accordance with the following terms and conditions:

1. interest accrues on the outstanding principal at the rate of 8 percent per annum;

2. interest on each disbursement accrues from the date of disbursement until repaid, canceled or fulfilled. Accrued interest will be capitalized when the recipient enters repayment status;

3. repayment status. The recipient enters repayment status the first day of the month following:

a. the date the recipient notifies LASFAC that monetary repayment is desired; or

b. six months after LASFAC determines that the recipient is no longer pursuing a degree program or course of study leading to a degree in wildlife, forestry or marine science;

4. the annual repayment amount will be the greater of:

a. the amount necessary to repay the capitalized loan principal within seven years; or

b. \$1,200 per year or the unpaid balance, whichever is less;

5. recipients in repayment status may have their payments deferred in accordance with §2105.B, titled Deferment of Repayment Obligation;

a. during the period of time a recipient is in deferment status, the recipient is not required to make payments and interest does not accrue;

b. the period of time for completion of repayment will be extended by a period of time equal to the length of time the recipient is in deferment status.

D. Cancellation. The obligation to repay all or part of Rockefeller State Wildlife Scholarship Program funds shall be canceled in the event either of the following occurs:

1. upon submission to LASFAC of a sworn affidavit from a qualified physician that the recipient is precluded from completing the educational program and/or from gainful employment because of a complete and permanent medical disability or condition;

2. upon submission to LASFAC of a death certificate, or other evidence conclusive under state law, that the recipient is deceased.

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

HISTORICAL NOTE: Promulgated LR 24:640 (April 1998), amended LR 24:1909 (October 1998), repromulgated LR 27:1860 (November 2001).

Chapter 13. Leveraging Educational Assistance Partnership (LEAP)

§1301. General Provisions

A. Legislative Authority

1. Federal

a. Title IV of the Higher Education Act of 1965;

b. 34 CFR Part 692, as amended;

c. Title IV of the Higher Education Amendments of 1992 (Public Law 102-325).

2. State

a. R.S. 17:3032.5;

b. Act 632 of the 1974 Regular Legislative Session;

c. Act 228 of the 1977 Regular Legislative Session.

B. Description, History and Purpose. The Louisiana Leveraging Educational Assistance Partnership (LEAP) Program, first funded in 1975, provides need-based grants to academically qualified students using federal and state funds. These grants are to be used for educational expenses including tuition and fees, books and supplies, and living expenses, such as room, board and transportation.

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

D. Award Amounts. Individual grants range from an annual minimum of \$200 to a maximum of \$2,000; however, the actual amount of each student's award is determined by the financial aid office at the institution and is governed by the number of recipients selected and the amount of funds available. Awards are based upon a full academic year,

excluding summer sessions and intersession, beginning with the fall term and concluding with the spring term.

E. Allocation of Funds. Annually, funds are allocated to post-secondary institutions based on school type, the school's prior year first-time, full-time enrollment and the amount of the prior year's allocation that was expended. Initial funds, for first-time recipients, are computed as a percentage of all participating institutions first-time, full-time enrollment as of October 10 of the prior fiscal year. A student's enrollment in an undergraduate degree granting school which is a component of a state supported medical center, shall be a first-time, full-time freshman for the purpose of this program. Continuation funds for students who had previously received LEAP are computed as a percentage of the allocated funds used during the previous year. The continuation formula applies 60 percent for four year schools and 40 percent for two-year schools.

F. Reallocation of Funds. Uncommitted institutional allotted funds are reallocated if not committed by the deadline of November 1 for colleges and universities and January 1 for proprietary schools and campuses of Louisiana Technical College. The method of reallocation is dependent upon the amount of funds available for reallocation. If the reallocation amount is less than \$50,000, then only two- and four-year colleges and universities, which have fully committed their original allotment by the appropriate deadline, receive a reallocation. If \$50,000 or more is available for reallocation, it is reallocated to eligible schools of all types, which have fully committed their original allotment by the appropriate deadline.

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

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

§1303. Establishing Eligibility

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

1. be a U.S. citizen or national or eligible noncitizen, and registered with the Selective Service, if required; and
2. be a resident of Louisiana, as defined in §301 for at least one year prior to July 1 of the Award Year; and
3. annually, submit the completed Free Application for Federal Student Aid (FAFSA) or Renewal FAFSA, whichever is available to the applicant, by the state deadline defined in §503 and any deadline imposed by the institution attended; and
4. have a high school diploma with at least a 2.00 cumulative grade point average, or a minimum average score of 45 on the General Educational Development (GED) test, or an ACT composite score of at least 20, or a post-secondary grade point average of at least 2.00 from the most recent term; and
5. be selected and certified by the school for receipt of an LEAP award, contingent upon final approval by LASFAC; and
6. meet any additional selection criteria established by the individual institution participating in the LEAP Program; and
7. be certified as a full-time undergraduate student in an eligible program at an eligible post-secondary institution, as defined in §1901; and either:

a. be enrolled full time at the time of disbursement if disbursement occurs at the end of the fourteenth class day (ninth class day for Louisiana Tech); or

b. be enrolled full time at the end of the fourteenth class day (ninth class day at Louisiana Tech) and is enrolled at least half-time at the time of disbursement if disbursement occurs after the fourteenth class day (ninth class day at Louisiana Tech); and

8. have substantial financial need, as defined in §301; and

9. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC; and

10. not have a criminal conviction, except for misdemeanor traffic violations; and

11. agree that the award proceeds will be used exclusively for educational expenses; and

12. not be in default of an educational loan.

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

HISTORICAL NOTE: Promulgated LR 24:641 (April 1998), amended LR 24:1910 (October 1998), LR 25:1459 (August 1999), LR 27:1861 (November 2001).

§1305. Maintaining Eligibility

A. To continue receiving an LEAP Award, the recipient must meet all of the following criteria:

1. meet all of the initial eligibility criteria listed in §1303; and

2. maintain a cumulative post-secondary grade point average of at least 2.00 calculated on a 4.00 scale by the conclusion of the spring term.

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

HISTORICAL NOTE: Promulgated LR 24:642 (April 1998), amended LR 24:1911 (October 1998), LR 25: 1459 (August 1999), repromulgated LR 27:1861 (November 2001).

Chapter 15. T. H. Harris Scholarship

§1501. General Provisions

A. Legislative Authority

1. R.S. 17:3036.1;
2. Act 24 of the 1938 Regular Legislative Session;
3. Act 199 of the 1940 Regular Legislative Session;
4. Act 19 of the 1942 Regular Legislative Session;
5. Act 499 of the 1948 Regular Legislative Session;
6. Act 83 of the 1977 Regular Legislative Session;
7. Act 710 of the 1985 Regular Legislative Session;
8. Act 663 of the 1990 Regular Legislative Session.

B. Description, History and Purpose. The T. H. Harris Scholarship Program was first funded with state general funds in 1942 for the purpose of granting scholarships to deserving youth enrolling at state-supported colleges or universities. A maximum cumulative award, assuming the recipient maintains eligibility, is \$2,000 for five years of study. Effective with award year 1996-97, applications are not being accepted and the program is being phased out. Students awarded during the 1995-96 award year, continue to receive an award, as long as funds are available and they maintain continuing academic eligibility.

C. Award Amounts. The annual award is \$400, with a cumulative maximum award of \$2,000 for five years. Recipients receive \$200 each fall and spring term, less a \$5 award fee.

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

HISTORICAL NOTE: Promulgated LR 24:642 (April 1998), amended LR 24:1911 (October 1998), repromulgated LR 27:1861 (November 2001).

§1503. Maintaining Eligibility

A. To continue to receive T. H. Harris Scholarship funds, recipients must meet all of the following criteria:

1. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC; and
2. agree that award proceeds will be used exclusively for educational expenses; and
3. continue to enroll as a full-time undergraduate student in a two- or four-year public college or university, unless granted an exception for cause by LASFAC; and
4. successfully complete the minimum number of hours required for a full-time student as defined in §301; and
5. achieve a cumulative grade point average of at least 3.00, on a 4.00 scale, at the conclusion of the spring term each academic year; and
6. have received less than 10 semesters of T. H. Harris funding.

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

HISTORICAL NOTE: Promulgated LR 24:642 (April 1998), amended LR 24:1911 (October 1998), repromulgated LR 27:1862 (November 2001).

Chapter 17. Responsibilities of High Schools, School Boards, Special School Governing Boards, the Louisiana Department of Education and LASFAC on Behalf of Eligible Non-Louisiana High Schools

§1701. Eligibility of Graduates Based Upon the High School Attended

A. Graduates of the following high schools are eligible to participate in LASFAC's Scholarship and Grant programs, as authorized herein:

1. Louisiana Public High Schools' public high schools listed in the Louisiana School Directory (Louisiana Department of Education Bulletin 1462);
2. Approved Nonpublic High Schools
 - a. nonpublic high schools approved by the Louisiana Board of Elementary and Secondary Education (BESE) pursuant to R.S. 17:11 and which meet the standards required by BESE for students of the school to be eligible to receive from the state the benefit of appropriations for such items as transportation, textbooks, and administrative cost reimbursement, and
 - b. nonpublic schools approved by BESE pursuant to R.S. 17:11 prior to May 15, 2000, which have applied for and have had their application forwarded by the Louisiana Department of Education prior to May 15, 2000, seeking the approval necessary for the students in such school to be eligible to receive from the state the benefit of appropriations for such items as transportation, textbooks, and administrative cost reimbursement; and starting the 2003-2004 high school academic year, meet the requirements to be eligible to receive from the state the benefit of such appropriations.
 - c. the approvals by BESE may be provisional or probational approvals.

3. eligible Non-Louisiana High Schools -eligible non-Louisiana high schools are high schools which meet all of the following:

- a. are in a state adjoining the state of Louisiana; and
- b. have provided LASFAC with acceptable evidence of an agreement dated prior to June 5, 1994, between a parish school system in the state of Louisiana and the high school's local governing authority, which authorizes the attendance of students who are residents of Louisiana; and
- c. have students who graduate during the academic year preceding the award year, who were residents of Louisiana and who were funded through the Louisiana minimum foundation program; and
- d. have certified the academic performance of Louisiana graduates, in accordance with §1703;

4. Out-of-State High Schools

a. All other public or non-public high schools located in one of the United States or territories of the United States, other than Louisiana, which have been approved by the state or territory's chief school officer as listed in the Louisiana Department of Education Bulletin 1462, or by the public body which is that state's or territory's equivalent of the Louisiana Board of Elementary and Secondary Education (BESE), or which high school has been approved by the Southern Association of Colleges and Schools' Commission on Secondary and Middle Schools and can demonstrate that it meets the standards adopted by BESE for approval of nonpublic schools of Louisiana as set forth in §1701.A.2, above, and those high schools located in foreign countries which have been authorized or approved by a Department in the Executive Branch of the United States government to teach the dependents of members of the U.S. Armed Forces stationed abroad;

- i. graduates of out-of-state high schools are eligible to participate in the Rockefeller State Wildlife Scholarship and the State Student Incentive Grant Programs;
- ii. graduates of out-of-state high schools who are Louisiana residents or the dependents of a Louisiana resident serving on active duty with the Armed Forces or who have a parent who is a Louisiana resident are eligible to participate in TOPS.
 - b. a school will be deemed to be approved by the appropriate state agency if that state agency certifies:
 - i. that the high school in question received funding from the state to cover all or a portion of the costs of instruction; and
 - ii. that the high school in question adopted and does adhere to state and federal non-discrimination policies and statutes.

5. Out of Country High Schools. All other public or non-public high schools located outside the United States or the territories of the United States that meet the standards adopted by BESE for approval of nonpublic schools in Louisiana and which are accredited by an accrediting organization recognized by the United States Department of Education.

B. Non-high school graduates who have earned a General Education Diploma (GED) in lieu of a high school diploma are eligible to participate in the Leveraging Educational Assistance Partnership (LEAP) Grant Program

and if they have completed a BESE approved home study program, are eligible to participate in TOPS.

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

HISTORICAL NOTE: Promulgated LR 24:642 (April 1998), amended LR 24:1911 (October 1998), LR 25:849 (May 1999), LR26:68 (January 2000), LR 26:1997 (September 2000), LR 27:1862 (November 2001).

§1703. High School's Certification of Student Achievement

A. Responsibility for Reporting and Certifying Student Performance

1. Responsibility for the identification and certification of high school graduates who meet the academic qualifications for a TOPS award is as follows:

a. the principal or the principal's designee for public high schools;

b. the principal or headmaster or designee of each nonpublic high school approved by the State Board of Elementary and Secondary Education (BESE);

c. the principal or headmaster or designee of an eligible non-Louisiana high school;

d. the principal or headmaster or designee of an out-of-state high school is responsible only for providing the high school transcript or the date of graduation for those students who have applied for a student aid program administered by LASFAC.

2. The Louisiana Department of Education shall report to LASFAC the names of students who are enrolled in and have completed all mandatory requirements through the twelfth grade level of a state-approved home study program.

B. Procedures for Reporting and Certifying Student Performance

1. The responsible high school authority shall record student performance on the form provided by LASFAC or in an electronic format pre-approved by LASFAC. The certification form shall be completed, certified and returned to LASFAC by the deadline specified on the form.

2. The certification form shall contain, but is not limited to, the following reportable data elements:

a. student's name, address, phone number and social security number;

b. month and year of high school graduation;

c. final cumulative high school grade point average for all courses attempted, converted to a maximum 4.00 scale, if applicable (Note: Beginning with students graduating in 2002-2003, the cumulative high school grade point average will be calculated by using only grades obtained in completing the core curriculum.); and

d. through the graduating class of the Academic Year (High School) 2002-2003, number of core units earned and the number of core units unavailable to the student at the school attended;. After the graduating class of the Academic Year (High School) 2002-2003, core unit requirements may not be waived.

3. The responsible high school authority shall certify to LASFAC the final cumulative high school grade point average of each applicant and that average shall be inclusive of grades for all courses attempted and shall be computed and reported on a maximum 4.00 grading scale.

a. The following grading conversion shall be used to report the applicant's cumulative high school grade point average:

i. letter grade A = 4 quality points;

ii. letter grade B = 3 quality points;

iii. letter grade C = 2 quality points;

iv. letter grade D = 1 quality point.

b. Schools which award more than 4 quality points for a course must convert the course grade to a maximum 4.00 scale using the formula described in the example that follows.

[In this example, the school awards one extra quality point for an honors course.]

i. Example: an applicant earned a C in an Honors English IV course and received 3 out of the 5 possible quality points that could have been awarded for the course.

ii. In converting this course grade to a standard 4.00 maximum scale, the following formula must be used:

$$\frac{\text{Quality Points Awarded for the Course}}{\text{Maximum Points Possible for the Course}} = \frac{X (\text{Converted Quality Points})}{4.00 (\text{Maximum Scale})}$$

$$\frac{3.00}{5.00} = \frac{X}{4.00}$$

By cross multiplying,

$$5X = 12; X = 2.40$$

iii. In this example, the quality points for this Honors English IV course should be recorded as 2.40 when the school calculates and reports the student's cumulative high school grade point average.

4.a. - d. Repealed

C. Certifying 1998 Graduates for the TOPS Performance Award. 1998 Graduates who are ranked in the top 5 percent of their graduating class in accordance with §1703 shall be credited with having completed the core curriculum for purposes of the TOPS; however, only those meeting the following criteria shall be eligible for the Performance Award:

1. those students who have attained a final cumulative high school grade point average of at least a 3.50 on a 4.00 maximum scale; and

2. an ACT score of at least 23.

D. Certification. The high school headmaster or principal or designee shall certify that:

1. all data supplied on the certification form are true and correct, to the best of his knowledge or belief, and that they reflect the official records of the school for the students listed; and

2. records pertaining to the listed students will be maintained and available upon request to LASFAC and the legislative auditor for a minimum of three years or until audited, whichever occurs first; and

3. the school under the principal's jurisdiction shall reimburse LASFAC for the amount of a program award which was disbursed on behalf of a graduate of the school, when it is subsequently determined by audit that the school incorrectly certified the graduate.

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

HISTORICAL NOTE: Promulgated LR 24:643 (April 1998), amended LR 24:1912 (October 1998), LR 25:258 (February 1999), LR 26:2269 (October 2000), LR 27:1863 (November 2001).

§1705. Notification of Certified Students

A. High schools are required to present a certificate of achievement during the graduation ceremony or other school reception to students qualifying as recipients of TOPS Performance and Honors Awards.

B. High schools are required to invite members of the Louisiana Legislature representing the school's district to attend the ceremony or reception and to make the presentation awarding the endorsed certificates of achievement.

C. If the certifying authority elects to notify students of their certification, then the following disclaimer shall be included in any communication to the student:

"Although you have been certified as academically eligible for a Tuition Opportunity Program for Students (TOPS) Award, you must satisfy all of the following conditions to redeem a scholarship under this program:

1. You must be a Louisiana resident as defined by the Louisiana Student Financial Assistance Commission; and
2. You must be accepted for enrollment by an eligible Louisiana college and be registered as a full-time undergraduate student; and
3. You must annually apply for federal student aid by the deadline required for consideration for state aid; and
4. You must have met all academic and nonacademic requirements and be officially notified of your award by the Louisiana Student Financial Assistance Commission (LASFAC)."

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

HISTORICAL NOTE: Promulgated LR 24:644 (April 1998), amended LR 24:1913 (October 1998). Repromulgated LR 27:1864 (November 2001).

Chapter 19. Eligibility and Responsibilities of Post-secondary Institutions

§1901. Eligibility of Post-secondary Institutions to Participate

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

B. Regionally accredited private colleges and universities which are members of the Louisiana Association of Independent Colleges and Universities, Inc. (LAICU) are authorized to participate in TOPS (for both academic programs and programs for a vocational or technical education certificate or diploma or a non-academic undergraduate degree), TOPS-TECH, and LEAP. As of April 2000, LAICU membership included Centenary College, Dillard University, Louisiana College, Loyola University, New Orleans Theological Seminary, Our Lady of the Lake College, Our Lady of Holy Cross College, St. Joseph Seminary College, Tulane Medical Center, Tulane University, and Xavier University.

C. Campuses of Louisiana Technical College are authorized to participate in TOPS, TOPS-TECH, and LEAP.

D. Approved Louisiana proprietary and beauty schools are authorized to participate in LEAP only.

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

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

§1903. Responsibilities of Post-secondary Institutions

A. Certification of Student Data. Upon request by LASFAC, and for the purpose of determining an applicant's eligibility for a program award, an institution will report the following student data:

1. admission and full-time undergraduate enrollment; and
2. eligibility for, or enrollment in, a course of study leading to initial teacher certification; and
3. enrollment in math or chemistry as a major while pursuing teacher certification; and
4. graduate or undergraduate enrollment in wildlife forestry or marine science; and
5. cumulative college grade point average; and
6. cumulative college credit hours earned;
7. academic year hours earned.

B. Program Billing. Each term, institutions shall bill LASFAC for students who are recipients of a TOPS Award and who have enrolled at the institution in accordance with the following terms and conditions:

1. institutions may only bill for students who have been certified by LASFAC as eligible for a TOPS award; and

2. institutions will bill LASFAC based on their certification that the recipient of a TOPS Award is enrolled full-time, as defined in §301, at the end of the fourteenth class day (ninth class day for Louisiana Tech, first class day for campuses of Louisiana Technical College, and for any qualifying summer sessions at the end of the last day to drop and receive a full refund for the full summer session). Institutions shall not bill for students who are enrolled less than full-time at the end of the fourteenth class day (ninth class day for Louisiana Tech, first class day for campuses of Louisiana Technical College, and for any qualifying summer sessions at the end of the last day to drop and receive a full refund for the summer session), unless the student qualifies for payment for less than full-time enrollment as defined in §2103.B. Students failing to meet the full-time enrollment requirement are responsible for reimbursing the institution for any awards received. Refunds of awards to students who are not receiving federal Title IV aid, for less than full-time enrollment after the fourteenth class day, shall be returned to the state. Refunds to students who are receiving federal Title IV aid shall be refunded to the state in accordance with the institution's federal Title IV aid refund procedures; and

3. in the event the student's total aid, including Vocational Rehabilitation Awards, exceeds the Cost of Attendance, any federal loan aid included in the total aid package shall be reduced, then institutional and other aid in accordance with institutional practice, then the TOPS award shall be reduced by the amount of any remaining over award;

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

5. campuses of Louisiana Technical College are exempt from furnishing a schedule of fees, but must bill LASFAC on the first class day of each quarter for three times the monthly amount established by the Board of

Elementary and Secondary Education (BESE) for full-time attendance; and

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

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

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

b. Louisiana Technical College campuses may bill each quarter for three times the monthly amount established by the Board of Elementary and Secondary Education (BESE) for full-time attendance;

c. LAICU member colleges and universities may bill for an amount up to the weighted average tuition, as defined in §301;

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

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

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

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

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

C. Annual Application for Participation in, and Certification of Recipients of the LEAP Program

1. Annually, LASFAC forwards LEAP institutional participation agreements to those schools participating in the program during the prior award year, and upon written requests received, to schools not participating in the LEAP Program during the prior award year. To be eligible for allotment of LEAP funds the institution must meet all of the following requirements:

a. complete and return the annual LEAP application by the specified deadline; and

b. certify that students and parents will not be charged a fee for the collection of information used to determine the student's eligibility for LEAP; and

c. certify that students listed on the recipient roster meet federal, state and institutional specific LEAP eligibility criteria; and

d. certify that if the institution's LEAP allotment is based in part on the financial need of independent students, as defined by the U.S. Department of Education, a reasonable portion of the institution's allotment is being made available to independent students; and

e. certify that each LEAP recipient's total package of aid does not exceed the student's financial need; and

f. certify that LEAP funds recovered from over awards, refunds, and/or repayments, as defined in §301, during the applicable award period shall be returned to LASFAC to be reissued to other qualified students. Funds recovered from over awards, refunds and/or repayments after the applicable award period shall be returned to LASFAC for return to the U.S. Department of Education and/or the state of Louisiana. The amount of over award, refund and/or repayment shall be determined according to the school's policy established in accordance with federal regulations.

2. Annually, LASFAC provides eligible institutions an official allotment schedule, recipient roster and institution certification forms. Institutions are required to:

a. complete and return recipient rosters and institutional certification forms to ensure expenditure of allotted LEAP awards by the school specific deadlines of November 1 for public and LAICU member two- and four-year colleges and universities and January 1 for campuses of Louisiana Technical College and proprietary institutions; and

b. submit changes to the recipient roster by completing a replacement roster, provided by LASFAC; and

c. certify that if any LEAP funds are released in error to ineligible students, the institution will either recover the award amount from the students and refund to LASFAC or remit the refund due.

D. Disbursement of Funds. Upon receipt of award funds and prior to their disbursement to students, the institution shall:

1. for TOPS Teacher Award recipients:

a. verify that the recipient is enrolled full-time in an approved degree program or course of study leading to a degree in education or alternative program leading to regular certification as a teacher at the elementary or secondary level; or

b. if designated as a math or chemistry major, verify enrollment in a course of study leading to certification as a math or chemistry teacher;

2. for Rockefeller State Wildlife Scholarship recipients, verify undergraduate or graduate enrollment, whichever is applicable to the student, in:

a. Wildlife, Forestry or Marine Science; or

b. another major specified by the Louisiana Department of Wildlife and Fisheries as meeting their criteria for receipt of scholarship funds;

3. release award funds by crediting the student's account within 14 days of the institution's receipt of funds or disbursing individual award checks to recipients as instructed by LASFAC. Individual award checks for the T. H. Harris Scholarship, Rockefeller State Wildlife Scholarship, TOPS Teacher Award and LEAP must be released to eligible recipients within 30 days of receipt by the school or be returned to LASFAC.

E. Reporting of Academic Data. At the conclusion of each academic year, the institution will complete and return

to LASFAC, a College Academic Grade Report including, but not limited to, the following data elements:

1. academic year hours earned; and
2. cumulative hours earned; and
3. cumulative grade point average;
4. academic standing, and if applicable, date of placement on academic probation; and
5. upon graduation, degree date and type and name of degree.

F. Records Retention. Records pertaining to the students listed on the billing certification form will be subject to audit as required by state statute. Such records will be maintained for a minimum of three years and be available upon request to LASFAC and the Louisiana legislative auditor.

G. Certification of Qualified Summer Session. The institution's submission of a payment request for tuition for a student's enrollment in a summer session will constitute certification of the student's eligibility for tuition payment for the summer session, the student's acknowledgment and consent that each payment will consume one semester of eligibility, and the student's enrollment.

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

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

Chapter 21. Miscellaneous Provisions and Exceptions

§2101. Academic Suspension of Awards and Reinstatement

A. Students denied an award for their failure to maintain the required cumulative grade point average or for their failure to maintain Steady Academic Progress, as defined in §301, may be reinstated upon attainment of the required cumulative grade point average, provided that the period of ineligibility did not persist for more than two years from the date of loss of eligibility.

B. Students whose TOPS Performance and Honors Awards are reinstated are ineligible for annual stipends.

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

HISTORICAL NOTE: Promulgated LR 24:646 (April 1998), amended LR 24:1915 (October 1998), LR 26:68 (January 2000). Repromulgated LR 27:1866 (November 2001).

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

A. Initial Enrollment Requirement. Initially apply and enroll as a First-Time Freshman as defined in §301, unless granted an exception for cause by LASFAC, in an eligible college or university defined in §301. Initial enrollment requirements specific to the TOPS are defined at §703A.4 and for TOPS-TECH at §803.A.

B. Continuous Enrollment Requirement. To maintain eligibility, all scholarship programs require recipients to continue to enroll as full-time students, as defined in §301, each consecutive semester or quarter, excluding summer sessions and intersession, at two-year and four-year colleges and universities. Recipients who cannot meet this requirement may be granted an exception for cause, as determined by LASFAC.

C. Less Than Full-Time Attendance. LASFAC will authorize awards under the TOPS Opportunity, Performance,

Honors and Teachers Awards, the TOPS-TECH Award, and the T. H. Harris Scholarship Program for less than full-time enrollment provided that the student meets all other eligibility criteria and at least one of the following:

1. requires less than full-time enrollment to complete the undergraduate degree; or
2. is enrolled in a degree program that defines *full-time* as less than 12 hours per semester or eight hours per quarter; or
3. requires less than full-time enrollment to complete requirements for a specified course of study or clinical program.

D. Procedure for Requesting Exceptions to the Initial and Continuous Enrollment Requirement

1. The student should complete and submit an application for an exception, with documentary evidence, to the Office as soon as possible after the occurrence of the event or circumstance that supports the request. Through the 2000-2001 academic year, the student must submit application for an exception no later than May 30 of the academic year the student requests reinstatement into TOPS. Commencing with the 2001-2002 academic year, the student must submit the application for exception no later than six months after the date of the notice of cancellation. The deadline for filing the exception shall be prominently displayed on the notice of cancellation.

2. If determined eligible for an exception, the recipient will be reinstated if he or she enrolls in the first fall, winter or spring term immediately following the exception ending date.

3. If determined ineligible by LOSFA for an exception provided in §2103.E.11.a.ii, recipient may appeal in accordance with §2109 of these rules.

E. Qualifying Exceptions to the Initial and Continuous Enrollment Requirement. A student who has been declared ineligible for TOPS because of failure to meet the initial or continuous enrollment requirements may request reinstatement in TOPS based on one or more of the following exceptions.

1. Parental Leave
 - a. Definition. The student/recipient is pregnant or caring for a newborn or newly-adopted child less than one year of age.
 - b. Certification Requirements. The student/recipient must submit:
 - i. a completed exception request form including official college transcripts, and
 - ii. a written statement from a doctor of medicine who is legally authorized to practice certifying the date of diagnosis of pregnancy and the anticipated delivery date or the actual birth date or a copy of the hospital's certificate of live birth or a copy of the official birth certificate or equivalent official document or written documentation from the person or agency completing the adoption that confirms the adoption and date of adoption.
 - c. Maximum Length of Exception. Up to two consecutive semesters (three consecutive quarters) per child.

2. Physical Rehabilitation Program

a. Definition. The student/recipient is receiving rehabilitation in a program prescribed by a qualified medical professional and administered by a qualified medical professional.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including the reason for the rehabilitation, dates of absence from class, the necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, and any other information or documents, and

ii. a written statement from a qualified medical professional describing the rehabilitation, including the diagnosis, the beginning date of the rehabilitation, the required treatment, and the length of the recovery period.

c. Maximum Length of Exception. Up to four consecutive semesters (six consecutive quarters) per occurrence.

3. Substance Abuse Rehabilitation Program

a. Definition. The student/recipient is receiving rehabilitation in a substance abuse program prescribed by a qualified professional and administered by a qualified professional.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including official college transcripts, the reason for the rehabilitation, dates of absence from class, the necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, and any other information or documents, and

ii. a written statement from a qualified professional describing the rehabilitation, including the diagnosis, the beginning date of the rehabilitation, the required treatment, and the length of the recovery period.

c. Maximum Length of Exception. Up to two consecutive semesters (three consecutive quarters). This exception shall be available to a student only one time.

4. Temporary Disability

a. Definition. The student/recipient is recovering from an accident, injury, illness or required surgery, or the student/recipient is providing continuous care to his/her spouse, dependent, parent, stepparent, or guardian due to an accident, illness, injury or required surgery.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including official college transcripts, the reason for the disability, dates of absence from class, the necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, and any other information or documents; and

ii. a written statement from a qualified professional of the existence and of the accident, injury, illness or required surgery, including the dates of treatment, the treatment required, the prognosis, the length of the recovery period, the beginning and ending dates of the doctor's care, and opinions as to the impact of the disability on the student's ability to attend school; and

iii. if a temporary disability of another, a statement from the family member or a qualified professional confirming the care given by the student.

c. Maximum Length of Exception. Up to four consecutive semesters (six consecutive quarters) for recipient; up to a maximum of two consecutive semesters (three consecutive quarters) for care of a disabled dependent, spouse, parent, or guardian.

5. Permanent Disability

a. Definition. The student/recipient is permanently disabled in a manner that prevents the student from attending classes on a full-time basis.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including official college transcripts, a description of the disability, the reason for the disability, the reason(s) the disability restricts class attendance to less than full time, and

ii. a written statement from a qualified professional stating the diagnosis of and prognosis for the disability, stating that the disability is permanent, and opining why the disability restricts the student/recipient from attending classes full time.

c. Maximum Length of Exception. Up to the equivalent of eight full time semesters of post-secondary education in part time semesters.

6. Exceptional Educational Opportunity

a. Definition. The student/recipient is enrolled in an internship, residency, cooperative work, or work/study program or a similar program that is related to the student's major or otherwise has an opportunity not specifically sponsored by the school attended by the student that, in the opinion of the student's academic dean, will enhance the student's education. Participation in one of the programs does not qualify as an exception to the initial enrollment requirement.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including official college transcripts, and

ii. a written statement from the college/school official that the applicant is a student at the school/college and that the program is offered or sponsored by the college/school, or a statement from the dean of the college or the dean's designee that the program is related to the student's major and will enhance the student's education. The statements must include the dates of leave of absence, the semester(s) or number of days involved, the beginning and ending dates of the program.

c. Maximum Length of Exception. Up to two semesters (three consecutive quarters) or required program of study.

7. Religious Commitment

a. Definition. The student/recipient is a member of a religious group that requires the student to perform certain activities or obligations which necessitate taking a leave of absence from school.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including official college transcripts, the necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, and the length of the religious obligation, and

ii. a written statement from the college official and a written statement from the religious group's governing official evidencing the requirement necessitating the leave of absence including dates of the required leave of absence.

c. Maximum Length of Exception. Up to four consecutive semesters (six consecutive quarters).

8. Death of Immediate Family Member

a. Definition. The student's spouse, parent, stepparent, guardian, dependent, sister or brother or grandparent dies.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including official college transcripts, and

ii. a copy of the death certificate or a doctor's or funeral director's verifying statement or a copy of the obituary published in the local newspaper.

c. Maximum Length of Exception. Up to one semester or two quarters per death.

9. Military Service

a. Definition. The student/recipient is in the United States Armed Forces Reserves and is called on active duty status or is performing emergency state service with the National Guard.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including official college transcripts, the dates of the required leave of absence, necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, and the length of duty (beginning and ending dates), and

ii. a written certification from the commanding officer or regional supervisor including the dates and location of active duty, or

iii. a certified copy of the military orders.

c. Maximum Length of Exception. Up to the length of the required active duty service period.

10. Transfer/Graduation Part Time

a. Definition. A student/recipient who completed his or her program requirements for graduation or for transfer to another institution.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including official college transcripts and the semester affected, and

ii. a written statement from the dean of the college or the dean's designee certifying that the student/recipient was not required to attend full time in order to complete his or her program requirements for graduation or for transfer to another institution.

c. Maximum Length of Exception. One semester or one quarter.

11. Exceptional Circumstances

a. Definition. The student/recipient has exceptional circumstances, other than those listed in §2103.E.1-10, which are beyond his immediate control and which necessitate full or partial withdrawal from, or non-enrollment in, an eligible post-secondary institution.

i. The following situations are not exceptional circumstances.

(a). Financial conditions related to a student's ability to meet his or her educational expenses are not a justified reason for failure to meet the hours or continuous enrollment requirement, because TOPS is a merit, rather than need-based award.

(b). Dropping a course, failing a course, or withdrawing from school to protect the student's grade point

average or because of difficulty with a course or difficulty arranging tutoring.

(c). Not being aware of or understanding the requirements.

(d). Assumption that advanced standing, summer course work, or correspondence course work credited outside the appropriate regular semesters or quarters would be applied to the hours requirement.

(e). Differing scholarship or award requirements for other programs, such as NCAA full-time enrollment requirements.

(f). Voluntary withdrawal from school to move out-of-state or pursue other interests or activities.

(g.) Claims of receipt of advice that is contrary to these rules, public information promulgated by LOSFA, award letters, and the Borrower's Rights and Responsibilities document that detail the requirements for full-time continuous enrollment.

(h). Failure to provide or respond to a request for documentation within 30 days of the date of the request, unless additional time is requested in writing, LOSFA grants the request, and the requested documentation is provided within the additional time granted.

(i). For students graduating from high school in 2001 and thereafter, making financial commitments or accepting an academic or athletic scholarship or grant to attend a post-secondary institution outside of Louisiana.

(j). An involuntary drop, suspension, or withdrawal from enrollment because of academics, scholastics, or failure to attend classes or to comply with institutional regulations.

(k). A suspension or expulsion for misconduct.

(l). An inability to register because of failure to satisfy financial obligations.

ii. All other situations will be assessed at the discretion of LOSFA and subject to appeal to the Commission.

b. Certification Requirement. Submit a completed exception request form including a sworn affidavit from the student detailing the circumstances and including the official college transcripts and documentation necessary to support the request for reinstatement.

c. Maximum Length of Exception. Up to two consecutive semesters or three consecutive quarters.

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

HISTORICAL NOTE: Promulgated LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1017 (May 2000), LR 26:2004 (September 2000), LR 27:37 (January 2001), LR 27:1866 (November 2001).

§2105. Repayment Obligation, Deferment and Cancellation

A. Monetary Repayment. Recipients of the Rockefeller State Wildlife Scholarship who do not meet their obligation to obtain a degree in wildlife, forestry or marine science and recipients of the TOPS Teacher Award who do not fulfill their obligation to teach the required number of years and who are not eligible for Discharge by Cancellation, must repay the loan principal plus accrued interest as delineated in §§1111 and 911, respectively.

B. Deferment of Repayment Obligation. Recipients of the Rockefeller State Wildlife Scholarship or TOPS Teacher

Award who are in repayment status may have their payments deferred for the following reasons.

1. Parental Leave
 - a. Definition. The student/recipient must be pregnant or caring for a newborn or newly-adopted child.
 - b. Certification Requirements. Certification by a written statement from a doctor of medicine who is legally authorized to practice or an authorized official of the adoption agency.
 - c. Acceptable Documentation. Includes dates of required leave of absence, the number of days involved, the length of the recovery period, the beginning and ending dates of the doctor's care, and the required treatment.
 - d. Filing Requirements. The recipient must request by letter, with the required certification and documentation, within 60 days after the occurrence of the qualifying event.
 - e. Maximum Length of Deferment. Up to one academic year.
2. Rehabilitation Program
 - a. Definition. The recipient must be receiving rehabilitation in a program administered by a licensed rehabilitation center under a written individualized plan with specific dates of beginning and ending services.
 - b. Certification Requirements. Certification by a rehabilitation counselor or doctor of medicine.
 - c. Acceptable Documentation. Includes dates of the required leave of absence, the semester(s) or number of days involved, the length of the recovery period, the beginning and ending dates of the doctor's care, the required treatment.
 - d. Filing Requirements. The recipient must file a written request, with the required certification and documentation, within 60 days after occurrence of the qualifying treatment.
 - e. Maximum Length of Deferment. Up to two academic years.
3. Temporary Disability of Recipient, Child, Parent, Spouse, or Guardian
 - a. Definition. Temporary total disability of recipient or recipient's dependent, parent, guardian or spouse of whom recipient is primary care-giver.
 - b. Certification Requirements. Certification by a qualified physician.
 - c. Acceptable Documentation. Includes dates of the required leave, the length of the recovery or disability period, the beginning and ending dates of the doctor's care, the required treatment.
 - d. Filing Requirements. The recipient must file a written request with the required certification and documentation no earlier than 30 days but within 60 days after the occurrence of disability.
 - e. Maximum Length of Deferment. A deferment under §2105.B.3 for Temporary Disability of the Maker shall not exceed 36 months. A deferment under §2105.B.3 for Temporary Disability of any other person shall not exceed 12 months.
4. Military Service, Peace Corps, National Service Corps, VISTA
 - a. Definition. The recipient is called on active duty status with the United States Armed Forces or is performing emergency state service with the National Guard or is serving in the Peace Corps, National Service Corps or VISTA.

- b. Certification Requirements. Certified by a written statement from the commanding officer or regional supervisor or certified military orders.
 - c. Acceptable Documentation. Includes dates of required leave of absence, the semester(s) or number of days involved, the length of duty (beginning and ending dates).
 - d. Filing Requirements. The student/recipient must file a written request with the required certification and documentation, within 60 days after receipt of military orders or letter of appointment.
 - e. Maximum Length of Deferment. Up to the length of the required service period.
5. Recipient is engaging in a full-time course of study at an institution of higher education at the baccalaureate level or higher; or
 6. Recipient is:
 - a. seeking and unable to find full-time employment for a single period not to exceed 12 months; or
 - b. seeking and unable to find full-time teaching employment at a qualifying Louisiana school for a period of time not to exceed 27 months.
- C. Cancellation of Repayment Obligation. Upon submission of applicable proof, loans may be canceled for the following reasons:
1. death of the recipient;
 2. complete and permanent disability of the recipient which precludes the recipient from gainful employment.
- AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.
- HISTORICAL NOTE: Promulgated LR 24:649 (April 1998), amended LR 24:1918 (October 1998), LR 26:1603 (August 2000), repromulgated LR 27:1868 (November 2001).
- §2107. Funding and Fees**
- A. Limitation of Terms Funded
1. Routine funding for all Scholarship and Grant Programs is limited to the fall, winter and spring school terms.
 2. Extensions will be granted for the TOPS Opportunity, Performance, and Honors Awards for an institution's educational programs that require recipients to attend summer sessions to complete the program's mandatory courses when such courses are not offered during regular terms.
- B. Fees. The LASFAC may charge a variable fee not to exceed \$10 for each award check processed for recipients of the T.H. Harris Scholarship. This fee will be charged only if the Louisiana Legislature fails to appropriate sufficient state general funds for administration of this program. The LASFAC, at its discretion, may automatically deduct the fee from each T.H. Harris Scholarship award check.
- C. Less than Full-Time Attendance. The LASFAC will authorize awards under the TOPS Opportunity, Performance, Honors and Teachers Awards and the T.H. Harris Scholarship Program for less than full-time enrollment provided that the student meets all other eligibility criteria and at least one of the following:
1. requires less than full-time enrollment to complete the undergraduate degree; or
 2. is enrolled in a degree program that defines *full-time* as less than 12 hours per semester or eight hours per quarter; or

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

D. Insufficient Funds Appropriated

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

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

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

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

- i. students qualified by reduction of Foreign Language requirement for 1996-97 and 1997-98 graduates;
- ii. students qualified as Exceptional Students/Students with disabilities;
- iii. students who graduated from out-of-state high schools; and
- iv. students who completed an Approved Home Study Program.

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

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

3. From among those students otherwise eligible who are denied an award because of the imposition of the procedures in §2107.D.2, if additional funds subsequently

become available for expenditure in the same award year, those students who have the highest ACT scores and the least capacity to pay, as evidenced by their families' lower EFC, shall be the first to be awarded by reversing the procedure described in §2107.D.2.c.

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

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

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

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

§2109. Agency Decisions Subject to Appeal

A. Right of Appeal

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

2. Appeals are made to the Louisiana Student Financial Assistance Commission (the commission).

3. Decisions of the commission are not subject to appeal and are final actions.

B. Notice of Adverse Decision

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

C. Petition of Appeal

1. A petition of appeal must be in writing and filed within 30 days of the date of the notice of the decision.

2. The petition of appeal must include:

a. a sworn affidavit from the petitioner setting forth the basis of the appeal, including the specific reasons that LOSFA's decision is incorrect, and all facts supporting the appeal,

b. copies of all documents, including written statements by others, if any, that support the appeal,

c. official transcripts from the school/colleges attended during the periods in question, and

d. if the petitioner desires to make an oral presentation and/or argument, the petitioner must include in the petition for appeal:

i. a request to make oral presentation and/or argument,

ii. the name of each person who will speak and a brief summary of what each person will say, and

iii. the reasons why presentation of the appeal in writing is not sufficient and that an oral presentation and/or argument is justified.

3. The petitioner is not required to include documents in the petition of appeal which were forwarded with previous correspondence regarding the appeal.

4. The petition of appeal must be addressed to the Louisiana Student Financial Assistance Commission, in care of the Executive Director, Office of Student Financial Assistance and sent to Box 91202, Baton Rouge, LA 70821-9202, or hand delivered to 1885 Wooddale Boulevard, Wooddale Tower, Room 335, Baton Rouge, Louisiana.

5. Oral presentations and/or arguments.

a. the commission may allow presentations and/or arguments when the commission determines that such extraordinary procedures are justified based on information submitted by the petitioner;

b. LOSFA shall have the right to question the appellant and each person making an oral presentation on behalf of the appellant;

c. the commission's chairman may limit the time available to the appellant to make an oral presentation.

D. Appellate Procedure

1. After receipt of the Petition of Appeal, LOSFA will review the petition of appeal and determine whether the matters included in it are sufficient to change LOSFA's adverse decision. If, based upon new information submitted, LOSFA reverses its decision and approves the appeal, the petitioner will be notified in writing and no further action will be taken on the petition.

2. If LOSFA's decision remains adverse, LOSFA will prepare and forward the appellate's file (including the petition of appeal, the original request for reinstatement, LOSFA records relating to the appeal, and a written statement of LOSFA's position regarding the appeal to the ad hoc rules committee of the commission.

3. If the petition of appeal contains the appellant's request to make an oral presentation or argument, LOSFA shall notify the appellant in sufficient time to permit the appellant to be present when the appeal is scheduled to be heard by the ad hoc rules committee and the commission.

4. Pending a final decision by the commission, no further action will be taken in the matter by LOSFA.

5. The ad hoc rules committee will review the appellate file and make one of the following recommendations to the commission:

- a. recommend that LOSFA's decision be upheld, or
- b. recommend that LOSFA's decision be reversed,

or

c. remand the appellate file to LOSFA for further specified action(s), or

d. remand the appellate file to the commission without recommendation.

6. The ad hoc rules committee will forward the appellate file and its recommendation to the commission. The commission will review the recommendations of the committee and the appellate file.

7. The commission may adopt the recommendations of the committee or make a contrary decision approving or reversing LOSFA's decision, or remanding the matter to LOSFA for further specified actions.

8. Remanded matters will be expeditiously processed by LOSFA and returned to the commission for a final decision.

9. A decision of the commission to approve or reverse LOSFA's decision is final and is not subject to further review.

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

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

§2113. Revision of the Core Curricula

A. LASFAC shall continually consult with BESE and the Louisiana Board of Regents to evaluate the adequacy of the TOPS core curricula to prepare students for post-secondary studies. Upon receipt of a written recommendation to change the core curriculum from BESE or the Louisiana Board of Regents, and to which the other board has concurred, LASFAC shall seek legislative amendment to effect the recommendation.

B. LASFAC is authorized by law to determine a high school level course to be equivalent to a course described in the core curricula or to authorize the name change of a core curricula course. Prior to initiating rule making to authorize a name change, LASFAC must seek the recommendation of BESE and the Louisiana Board of Regents. The determination of a course as equivalent to a course included in the definition of core curriculum shall be limited to those courses identified in the Secondary Programs of Study contained in the Louisiana Handbook for School Administrators (LDE Bulletin 741). Only those recommendations for a name change or for the designation of an equivalent course which have been submitted by a local school board or other equivalent education agency for private schools will be considered by LASFAC and such recommendations shall be submitted directly to the Office of Student Financial Assistance, Attention: Scholarship and Grant Division.

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 24:1921 (October 1998), repromulgated LR 27:1871 (November 2001).

§2115. Procedures for Disabled Students and Exceptional Children

A. As provided for in §703.A.5.b.ii, a core curriculum course shall be waived for a student who is a Disabled Student or an Exceptional Child, as defined in §301, whose school certifies that it has the following documentation.

1. For a student claiming the status of a Disabled Student:

a. a written diagnosis from a person licensed or certified to diagnose the disability of the student, which diagnosis specifies the need for special accommodation by the student's high school; and

b. a written statement from the principal of the high school that a plan of accommodation under Section 504 of the Rehabilitation Act of 1973 ("504 Plan") has been established, and the high school was unable to provide the special accommodation, or, if the special accommodation was provided by the high school, the failure to complete the specified core curriculum course was due solely to the student's diagnosed disability.

2. For a student claiming the status of an Exceptional Child:

a. a written Individual Education Program (IEP) in accordance with R.S. 17:1941 et seq. and Louisiana Department of Education Bulletin 1706, and

b. a written statement from the principal of the high school that the failure to complete the specified core

curriculum course was due solely to the student's exceptionality.

B. For Disabled Students graduating prior to the 1999-2000 high school academic year and who are requesting a waiver of a core curriculum course based upon their status as a Disabled Student, those students must provide the documentation provided in §2115.A.1, above, however, those students need not establish the existence of a 504 Plan.

C. A school official must obtain the consent from the student's parent or legal guardian, as required by law, prior to the release of information concerning a student who is requesting a waiver of a core course by reason of that student being a Disabled Student or an Exception Child.

D. If a core curriculum course is waived based upon the determination that a student's disability or exceptionality, then the grade achieved for that course will not be included in the determination of the student's grade point average for purposes of qualifying for a TOPS award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3026, R.S. 3042.1 and R.S. 3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1795 (October, 1999), repromulgated LR 27:1871 (November 2001).

Chapter 23. Tuition Payment Program for Medical School Students

§2301. General Provisions

A. Legislative Authority. The Tuition Payment Program for Medical School Students was created by Act 281, of the 1997 Regular Session of the Louisiana Legislature. This bill added R.S. 17:3041.10-3041.15.

B. Description, History and Purpose. The Tuition Payment Program for Medical School Students:

1. annually awards not more than four monetary loans to eligible students who commit to practice the profession of medicine as a primary care physician, as defined herein, for at least two consecutive years in a rural or poor community in Louisiana designated a "rural health shortage area" by the Louisiana Department of Health and Hospitals (hereinafter referred to as a "Designated Area"). When the individual receiving the award practices medicine in a Designated Area for two consecutive years as provided in these rules, the loans are forgiven in full.

2. was first funded for the 1998-99 award year;

3. was created to provide an incentive for Louisiana's medical school students to practice as primary care physicians in a Designated Area.

C. Award Amounts

1. Loans are made in an amount not to exceed the full tuition and room and board amount for students enrolled at one of the medical schools of Louisiana State University.

2. Recipients may receive a maximum of two years of funding.

3. Recipients may receive other financial awards in conjunction with the Tuition Payment Program for Medical School Students.

4. In the event the student's total aid exceeds the Cost of Attendance as defined in §301 of these rules, any federal loan aid included in the total aid package shall be reduced, then institutional and other aid in accordance with institutional practice, then the Tuition Payment for Medical School Students shall be reduced by the amount of any remaining over award.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1460 (August 1999) LR 25:2177 (November 1999), repromulgated LR 27:1872 (November 2001).

§2303. Establishing Eligibility

A. To establish eligibility, the student applicant must meet all of the following criteria:

1. be a U.S. Citizen; and

2. be a resident of Louisiana, as defined in §301 of LAC 28:IV for at least two years prior to April 15 of the calendar year in which the award will be made; and

3. submit the completed Free Application for Federal Student Aid (FAFSA) or Renewal FAFSA, whichever is applicable to the student, by April 15th of the calendar years in which an award is being sought (for those students applying for the 1998/1999 academic year, the deadline for filing the FAFSA is extended to March 1, 1999); and

4. be enrolled in the third year of study or later at one of the LSU medical schools as a full-time student in a course of study leading to a doctorate degree in medicine with the intent to enter a residency program leading to a specialization in a primary care field or has earned such a degree prior to commencement of residency. A "primary care field" shall include the following fields of medicine: family medicine, general internal medicine, general pediatrics, obstetrics/gynecology or a medical/pediatrics practice.

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

6. complete and submit such other documentary evidence as may be required by LASFAC within the deadline specified; and

7. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC; and

8. not have a criminal conviction, except for misdemeanor traffic violations; and

9. agree that the award will be used exclusively for educational expenses.

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

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

§2305. Application Process and Selection Criteria

A. The LSU Medical Center shall seek applications from medical students desiring to apply for a loan under this program and shall determine and report to the Commission, no later than the date specified by the Commission:

1. the academic standing of those applicants who meet the prerequisites of Section 2303.4 and 5. In determining the academic standing of applicants, the LSU Medical Center shall employ an evaluation system which is equitable to all applicants regardless of the medical school they attend; and

2. those applicants who have demonstrated an interest in primary care medicine through involvement in student activities which are supportive of the future practice of medicine as a primary care physician and which have been

identified by the LSU Medical Center and approved by the administrator as meriting the award of extra points in the ranking of applicants.

B. From the list of applicants submitted by the LSU Medical Center, the Commission shall rank the applicants in order of merit and select no more than four individuals to receive the award in any one year [hereinafter "Recipient(s)"]. The applicant's order of merit shall be determined by the academic standing of the applicant as reported by the LSU Medical Center and the extra points earned through student activities related to the practice of primary care medicine. The award shall be in the form of a loan to the Recipient as described in these rules.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1461 (August 1999), repromulgated LR 27:1872 (November 2001).

§2307. Award Amount

A. The loan shall not exceed the full cost of tuition plus room and board, as those terms are defined herein, for two academic years.

B. The loan disbursement will be in two increments during each academic year, unless disbursed subsequent to entering the third year of medical study, in which case any prior disbursements due may be included in the initial disbursement based upon requests for disbursements submitted by the LSU Medical Schools which are consistent in timing with the normal payment of tuition by medical school students.

C. The loans for each of the two academic years are dependent upon sufficient appropriation by the State Legislature. Should the State Legislature fail to appropriate sufficient funds in each year to provide for the amount of the award agreed to by the Commission and student, the obligation to repay the loan will be remitted.

D. The cost of room and board included in an award under this section shall not exceed the cost allocated to room and board in the calculation of "cost of attendance" determined in accordance with 20 U.S.C. 1087II.

E. Tuition shall not exceed the fees, charges and other costs normally required to be paid by all medical students at the school attended.

F. The specific award amount for each loan shall be that amount stated in the agreement between the student and the Commission and shall not exceed the tuition and room and board charged at the school attended.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1461 (August 1999), repromulgated LR 27:1873 (November 2001).

§2309. Maintaining Eligibility

A. To continue receiving the Tuition Payment for Medical School Students, Recipients must meet all of the following criteria:

1. have received less than two years of funding under the Tuition Payment for Medical School Students; and
2. be considered in good standing by the LSU Medical Center and continue to make satisfactory progress towards a

medical degree in a primary care field or have completed studies in good standing; and

3. continue to enroll each subsequent term as a full-time student, unless granted an exception for cause by LASFAC, in a course of study leading to a degree in medicine; and

4. annually apply for federal and state student aid by completing the FAFSA or Renewal FAFSA, whichever is applicable to the student, by the state deadline; and

5. have no criminal convictions, except for misdemeanor traffic violations; and

6. be in compliance with the terms of all other federal and state aid programs which the student may be receiving and which are administered by LASFAC.

B. Upon graduation from medical school, an award Recipient will be continued in a deferred payment status under the terms of the Tuition Payment Program for Medical Students Promissory Note ("Promissory Note") as long as the Recipient is enrolled in a residency program leading to a medical specialty in a primary care field. The Recipient shall notify LASFAC of the place and duration of the Recipient's residency program no later than the Recipient's date of graduation from medical school. The notice shall include an endorsement from the LSU Medical Center or its designee that the residency program is a program that will lead to the ability to practice as a primary care physician as defined herein. The LSU Medical Center shall make available to the Recipient a list of Designated Areas. The Recipient shall identify the Designated Area in which the Recipient intends to practice medicine and include this selection in the notice sent to LASFAC. By July 30 of each year after graduation from medical school, the Recipient shall notify LASFAC of the Recipient's current address and include in such notice an endorsement from an appropriate official of the residency program in which the Recipient is engaged that the Recipient is making satisfactory progress in the program. The Recipient shall notify LASFAC in writing of the completion of the residency program and the date the Recipient will initiate practice in a Designated Area. Each year thereafter, on the anniversary of the date the Recipient enters a primary care practice in a Designated Area, the Recipient shall send a written confirmation to LASFAC that the Recipient has practiced medicine during that year as required under the terms of the Promissory Note. The written confirmation shall be in the form of an affidavit executed before a notary public and shall be endorsed by the Louisiana Department of Health and Hospitals, affirming that the Recipient has practiced in a Designated Area. Failure of the Recipient to send any of the notices required under the terms of the Promissory Note in a timely manner shall cause the Recipient to be placed in a repayment status.

C. Students who fail to maintain eligibility for the second year of the loan will be placed in a repayment status within six months of their loss of eligibility, unless granted an exception for cause by the Commission.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1462 (August 1999), repromulgated LR 27:1873 (November 2001).

§2311. Completion of Promissory Note and Acceptance of Award

A. Prior to receiving an award, the Recipient must agree to the terms and conditions contained in and execute the Tuition Payment Program for Medical Students Promissory Note ("Promissory Note"). The Promissory Note obligates the Recipient to initiate a primary care practice in a Designated Area upon the completion of a primary care residency program. The Recipient shall complete the primary care residency program within four years of the date of graduation from medical school and shall initiate the full-time practice of medicine as a primary care physician in a Designated Area within six months from the date of completion of the residency program. The Designated Area in which the Recipient initiates practice shall be that area designated in the notice required by §2309.B, above, or such other Designated Area chosen by the Recipient, with the concurrence of LASFAC, upon completion of the residency program. The Promissory Note shall provide that if the area chosen in the notice provided for in §2309.B, above, is no longer an area designated a "rural health shortage area" by the Louisiana Department of Health and Hospitals at the time the Recipient finishes the residency program, it shall continue to be considered a Designated Area for purposes of discharge of the loan amount under these rules. The Recipient shall be deemed to be in a full-time primary care practice if the Recipient performs direct patient care for an average of at least 36 hours per week in a normal annual work schedule. Should a Recipient fail to enter into the practice of medicine on a full-time basis as a primary care physician within the time specified herein, the loan shall be placed in a repayment status and repaid together with all accrued interest and any collection costs incurred by the Commission, as specified in the Promissory Note.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1462 (August 1999), repromulgated LR 27:1874 (November 2001).

§2313. Discharge of Obligation

A. The loan may be discharged by engaging in a full-time primary care medical practice in a Designated Area for a period of two years, by monetary repayment or by cancellation.

B. Discharging the loan by entering into the full-time practice as a primary care physician in a Designated Area is accomplished by:

1. completing a residency in a primary care field of medicine within 4 years of the graduation from medical school; and
2. practice as a primary care physician on a full time basis for a period of at least two consecutive years in a Designated Area.

C. Recipients who fail to complete the medical practice requirements as specified in the Promissory Note shall be required to repay the entire loan obligation in accordance with subsection D, below.

D. Discharging the Promissory Note by Monetary Repayment. Recipients who elect not to discharge the obligation by practicing medicine as required in these rules and the Promissory Note and who are not eligible for discharge by cancellation must repay the loan principal plus

accrued interest and any collection costs incurred according to the following terms and conditions:

1. interest shall accrue on the outstanding principal from the date of disbursement to the Recipient, at the rate determined by the Commission and reflected in the Promissory Note, not to exceed the maximum rate of interest which can be legally charged under Louisiana law for such loans. Annually, accrued interest shall be capitalized, meaning added to principal;

2. interest on each disbursement shall accrue from the date of disbursement until repaid, or fulfilled and shall be capitalized annually and at the time the Recipient enters repayment status.

E. Repayment Status.

1. The Recipient will enter into a repayment status the first of the month following:

a. determination by LASFAC that the Recipient cannot discharge the loan by practicing medicine as required by these rules and the Promissory Note within the required time period; or

b. the date the Recipient notifies LASFAC that monetary repayment is desired; or

c. six months after LASFAC determines that the Recipient is no longer participating in a residency program in a primary care medical field or has otherwise failed to comply with the terms of the Promissory Note;

2. the amount to be repaid annually will be the greater of:

a. the amount necessary to amortize the loan principal together with capitalized and accruing interest within five years; or

b. \$5,000 per year or the unpaid balance, whichever is less;

3. Recipients in repayment status may have their payments deferred in accordance with §2105.B., Deferral of Repayment Obligation;

4. during the period of time a Recipient is in a deferment status, a Recipient is not required to make payments and interest does not accrue;

5. the period of time for completion of repayment will be extended by a period of time equal to the length of time the Recipient is in deferment status.

F. Cancellation. The obligation to repay any remaining unpaid balance of the Promissory Note shall be canceled in the event either of the following occurs:

1. upon submission to LASFAC of a sworn affidavit from a qualified physician that the Recipient is precluded from gainful employment because of a complete and permanent medical disability or condition; or

2. upon submission to LASFAC of a death certificate or other evidence conclusive under state law, that the Recipient is deceased.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 25:1463 (August 1999), LR 25:2177 (November 1999), repromulgated LR 27:1874 (November 2001).

Mark S. Riley
Assistant Executive Director

0111#013

RULE

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

Tuition Opportunity Program for Students
(TOPS)CDefinitions and Exceptional Circumstances
(LAC 28:IV.301 and 2103)

The Louisiana Student Financial Assistance Commission (LASFAC) amends rules of the Scholarship/Grant programs (R.S. 17:3021-3026, R.S. 3041.10-3041.15, and R.S. 17:3042.1, R.S. 17:3048.1).

**Title 28
EDUCATION**

**Part IV. Student Financial AssistanceC Higher
Education Scholarship and Grant Programs**

Chapter 3. Definitions

§301. Definitions

* * *

*First-Time Freshman*Ca student who is awarded TOPS Opportunity, Performance, or Honors and enrolls for the first-time as a full-time freshman in an academic program in a postsecondary school subsequent to high school graduation, and continues to be enrolled full-time at the end of the fourteenth class day (ninth class day for Louisiana Tech) or enrolls for the first time, full-time in a Louisiana public community or technical college that offers a vocational or technical education certificate or diploma program or a non-academic undergraduate degree to pursue a skill, occupational training, or technical training subsequent to high school graduation. A student who is awarded TOPS Opportunity, Performance, or Honors and begins in an academic program in a postsecondary college or university in a summer session will be considered a *first-time freshman* for the immediately succeeding fall term. A student who is awarded TOPS Opportunity, Performance, or Honors and begins in a non-academic program in a postsecondary school in a summer term will be considered a *first-time freshman* at the time of such enrollment. The fact that a student enrolls in a postsecondary school prior to graduation from high school and/or enrolls less than full time in a postsecondary school prior to the required date for full time enrollment shall not preclude the student from being a *first-time freshman*.

* * *

*Full-Time Student*C

a. a student enrolled in an institution of higher education who is carrying a full-time academic workload as determined by the school under the standards applicable to all students enrolled;

b. for continuation purposes, a student must be enrolled full-time at the end of the fourteenth class day (ninth class day for Louisiana Tech or Louisiana Technical College);

c. for continuation purposes, a student is considered to have met the full-time requirement if by the completion of the academic year he has earned at least 24 hours of total credit as reported by the institution for the fall and spring semesters at institutions defining 12 semester hours as the minimum for standing as a full-time undergraduate or as

reported by the institution for the fall, winter and spring quarters at institutions defining 8 quarter hours as the minimum for standing as a full-time undergraduate. For purposes of TOPS and except where specified otherwise within these rules, a student shall be credited for hours earned as reported by the institution that the student attends in accordance with that institution's published policies. Students should be aware that these policies may differ depending on the school the student attends. (see §§705.A.7, 705.D, 805.A.7, and 907.A.2 for more expanded TOPS requirements);

d. for programs which permit graduate study, a graduate student must have earned at least 18 hours of total credit during the fall, winter and spring terms;

e. a workload of at least 30 clock hours per week is the full-time equivalent at a technical college;

f. a student enrolled in two or more institutions of higher education when such multiple enrollment is necessary for the student to gain access to the courses required for completion of the degree in the chosen discipline and where the total number of hours earned at all institutions during the academic year is the equivalent of carrying a full-time academic workload as determined by the institution which will award the degree.

* * *

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

Chapter 21. Miscellaneous Provisions and Exceptions

**§2103. Circumstances Warranting Excepti on to the
Initial and Continuous Enrollment
Requirements**

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

(j). an involuntary drop, suspension, or withdrawal from enrollment because of academics, scholastics, or failure to attend classes or to comply with institutional regulations;

(k). a suspension or expulsion for misconduct;

(l). an inability to register because of failure to satisfy financial obligations.

E.11.a.ii - E.11.c. ...

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

HISTORICAL NOTE: Promulgated LR 24:647 (April 1998), amended LR 24:1919 (October 1998), LR 26:1017 (May 2000), LR 26:2004 (September 2000), LR 27:36 (January 2001), LR 27:1875 (November 2001).

Mark S. Riley
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0111#011

RULE

Tuition Trust Authority Office of Student Financial Assistance

Student Tuition and Revenue Trust
(START Saving) Program
(LAC 28:VI. 101, 107, 301, 303,
305, 307, 309, 311, 313, 315)

The Louisiana Tuition Trust Authority (LATTA) is amending and repromulgating rules of the Student Tuition Assistance and Revenue Trust (START Saving) Program (R.S. 17:3091-3099.2).

The rules are necessary to implement recent changes in state and federal laws that affect the program, its participants and prospective participants. Sections 101, 107, and 301-315 are being amended. Sections 103 and 105 are being repromulgated to provide a clear description of the current rules.

Title 28 EDUCATION

Part VI. Student Financial AssistanceCHigher Education Savings

Chapter 1. General Provisions

Subchapter A. Student Tuition Trust Authority

§101. General Provisions

A. The Louisiana Student Tuition Assistance and Revenue Trust (START Saving) Program was enacted in 1995 to provide a program of savings for future college costs to:

1. help make education affordable and accessible to all citizens of Louisiana;
2. assist in the maintenance of state institutions of postsecondary education by helping to provide a more stable financial base to these institutions;
3. provide the citizens of Louisiana with financing assistance for education and protection against rising tuition costs, to encourage savings to enhance the ability of citizens to obtain access to institutions of postsecondary education;
4. encourage academic excellence, to promote a well-educated and financially secure population to the ultimate benefit of all citizens of the state; and
5. encourage recognition that financing an education is an investment in the future.

B. The START Saving Program establishes Education Savings Accounts by individuals, groups, or organizations with provisions for routine deposits of funds to cover the future educational costs of a designated Beneficiary.

1. In addition to earning regular interest at competitive rates, certain accounts are also eligible for Earnings Enhancements provided by the state to help offset the Beneficiary's cost of Qualified Higher Education Expenses.

2. The Earnings Enhancement amount is determined by the Account Owner's classification, annual federal adjusted gross income, and total annual deposits of principal.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:711 (June 1997), LR 24:1267 (July 1998), LR 26:2260, amended LR 27:1876 (November 2001).

§103. Legislative Authority

A. Act Number 547 of the 1995 Regular Legislative Session, effective June 18, 1995, enacted the Louisiana Student Tuition Assistance and Revenue Trust (START) Saving Program as Chapter 22-A, Title 17 of the Louisiana Revised Statutes (R.S. 17:3091-3099.2).

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:711 (June 1997), LR 24:1267 (July 1998), LR 26:2260 (October 2000), LR 27:1876 (November 2001).

§105. Program Administration

A. The Louisiana Tuition Trust Authority (LATTA) is a statutory authority whose membership consists of the Louisiana Student Financial Assistance Commission (LASFAC), plus one member from the Louisiana Bankers Association, the state treasurer, and one member each from the house of representatives and state senate.

B. The LATTA administers the START Saving Program through the Louisiana Office of Student Financial Assistance (LOSFA).

C. LOSFA is the organization created to perform the functions of the state relating to programs of financial assistance and certain scholarship programs for higher education in accordance with directives of its governing bodies and applicable law, and as such is responsible for administering the START Saving Program under the direction of the LATTA.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:711 (June 1997), LR 24:1267 (July 1998), LR 26:2260 (October 2000), LR 27:1876 (November 2001).

§107. Applicable Definitions

*Account Owner*Cthe person(s), Independent Student, organization or group that completes an Owner's Agreement on behalf of a Beneficiary and is the Account Owner of record of all funds credited to the account.

*Beneficiary*Cthe person named in the Education Savings Account Owner's Agreement as the individual entitled to apply the account balance, or portions thereof, toward payment of their Qualified Higher Education Expenses.

*Disabled or Disability*Cfor purposes of this title, an individual shall be considered to be disabled if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration. An individual shall not be considered to be disabled unless he furnishes proof of the existence thereof in such form and manner as the Authority may require.

*Earnings Enhancement*Ca payment allocated to an Education Savings Account, on behalf of the Beneficiary of the account, by the state. The amount of the annual Earnings Enhancement is calculated based upon the Account Owner's classification, annual federal adjusted gross income, and total annual deposits of principal. Earnings Enhancements, and the interest earned thereon, may only be used to pay the Beneficiary's Qualified Higher Education Expenses, or portion thereof, at an Eligible Educational Institution and cannot be refunded.

Education Savings AccountCa savings account established by an individual, a group of individuals or an organization to pay the Qualified Higher Education Expenses of the designated Beneficiary.

Educational TermCa semester, quarter, term, summer session, inter-session, or an equivalent unit.

Eligible Educational InstitutionCa either a state college, university, or technical college or institute or an independent college or university located in this state that is accredited by the regional accrediting association, or its successor, approved by the U.S. Secretary of Education or a public or independent college or university located outside this state that is accredited by one of the regional accrediting associations, or its successor, approved by the U.S. Secretary of Education or a Louisiana licensed proprietary school licensed pursuant to R.S. Chapter 24-A of Title 17, and any subsequent amendments thereto.

Enrollment PeriodCa that period designated by the LATTA during which applications for enrollment in the START program will be accepted by the LATTA.

False or Misleading InformationCa statement or response made by a person which is knowingly false or misleading and made for the purpose of establishing a program account and/or receiving benefits to which the person would not otherwise be entitled.

Fixed Earnings- the placement of all deposits in an education savings account, to include the interest earned thereon, in investments that normally provide a fixed rate of return for a specific period of time.

Fully Funded AccountCa an account in which the sum of cumulative contributions, earnings on contributions, Earnings Enhancements and interest accrued thereon, has equaled or exceeded the amount which is five times the annual Tuition at the highest cost Louisiana public college or university projected to the Scheduled Date of First Enrollment. The projected Tuition at each Eligible Educational Institution shall be updated by the administering agency. On the date of the Beneficiary's first enrollment in an Eligible Educational Institution, the Fully Funded amount will be fixed at five times the annual Tuition at the highest cost Louisiana public college or university, for the academic year of enrollment or the projected amount, whichever is greater.

Independent StudentCa person who is defined as an Independent Student by the Higher Education Act of 1965, as amended, and if required, files an individual federal income tax return in his/her name and designates him/herself as the Beneficiary of an Education Savings Account.

Louisiana Education Tuition and Savings Fund (the Fund)Ca special permanent fund maintained by the Louisiana State Treasurer for the purpose of the START Saving Program, consisting of deposits made by Account Owners pursuant to the START Saving Application and Owners Agreement, interest earned on said deposits as a result of investment by the Louisiana State Treasurer, accumulated penalties and forfeitures, and the Savings Enhancement Fund, which is a special sub-account designated to receive Earnings Enhancements appropriated by the State, and interest earned thereon.

Louisiana Office of Student Financial Assistance (LOSFA)Ca the organization responsible for administering the

START Saving Program under the direction of the Louisiana Tuition Trust Authority.

Louisiana Resident

1. any person who resided in the state of Louisiana on the date of the application and who has manifested intent to remain in the state by establishing Louisiana as legal domicile, as demonstrated by compliance with all of the following:

a. if registered to vote, is registered to vote in Louisiana;

b. if licensed to drive a motor vehicle, is in possession of a Louisiana driver's license;

c. if owning a motor vehicle located within Louisiana, is in possession of a Louisiana registration for that vehicle;

d. if earning an income, has complied with state income tax laws and regulations.

2. a member of the Armed Forces stationed outside of Louisiana, but who claims Louisiana on his official DD 2058 as his "legal residence" for tax purposes, and is in compliance with Paragraph 1.d above, shall be considered eligible for program participation;

3. a member of the Armed Forces stationed in Louisiana under permanent change of station orders shall be considered eligible for program participation;

4. persons less than 21 years of age are considered Louisiana Residents if they reside with and are dependent upon one or more persons who meet the above requirements.

Louisiana Tuition Trust Authority (LATTA)Ca the statutory body responsible for the administration of the START Saving Program.

Maximum Allowable Account BalanceCa the amount, determined annually and expressed as a current dollar value, which is equal to five times the Qualified Higher Education Expenses at the highest cost institution in the state. Once the cumulative contributions, earnings on contributions, Earnings Enhancements and interest accrued thereon of an Education Savings Account equals or exceeds the Maximum Allowable Account Balance, principal deposits will no longer be accepted for the account. However, if subsequent increases occur in the Maximum Allowable Account Balance, principal deposits may resume until the cumulative credits equal the most recently determined Maximum Allowable Account Balance.

Member of the FamilyCa with respect to any designated Beneficiary means:

1. the spouse of such Beneficiary; or

2. an individual who bears one of the following relationships to such Beneficiary:

a. a son or daughter of the Beneficiary, or a descendant of either;

b. a stepson or stepdaughter of the Beneficiary;

c. a brother, sister, stepbrother, or stepsister of the Beneficiary;

d. the father or mother of the Beneficiary, or an ancestor of either;

e. a stepfather or stepmother of the Beneficiary;

f. a son or daughter of a brother or sister of the Beneficiary;

g. a brother or sister of the father or mother of the Beneficiary; or

h. a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the Beneficiary; or

i. a first cousin of the Beneficiary; or

j. the spouse of any individual described in subparagraph 2 of this definition.

Other Persons—with respect to any designated Beneficiary, is any person, other than the Beneficiary, whether natural or juridical, who is not a Member of the Family, including but not limited to individuals, groups, trusts, estates, associations, organizations, partnerships, and corporations.

Owner's Agreement—the agreement for program participation executed by the Account Owner which incorporates, by reference, R.S. Chapter 22-A, Title 17, and the rules promulgated by the LATTA to implement this statute and any other state or federal law applicable to the agreement.

Qualified Higher Education Expenses—tuition, fees, books, supplies, equipment, and Room and Board required for the enrollment or attendance of a designated Beneficiary at an eligible institution of postsecondary education

Rate of Expenditure—the rate [see §309.B] per Educational Term, at which the fund components may be disbursed from an Education Savings Account to pay the Beneficiary's Qualified Higher Education Expenses at an Eligible Educational Institution.

Redemption Value—the cash value of an Education Savings Account attributable to the sum of the principal invested, and the interest earned on principal, less any distributions, penalties and those refunds authorized by §311.F.3. Earnings Enhancements and the earnings thereon are not included. Redemption Value is not applicable to an Education Savings Account that is invested in Variable Earnings.

Refund Recipient—either the Account Owner or the Beneficiary as designated in the Owner's Agreement, or by operation of law, to receive refunds from the account.

Room and Board—qualified Room and Board costs include the reasonable cost for the academic period incurred by the designated Beneficiary for Room and Board while attending an Eligible Educational Institution on at least a half time basis, not to exceed the maximum amount included for Room and Board for such period in the cost of attendance (as currently defined in §472 of the Higher Education Act of 1965, 20 U.S.C. 1087II) for the Eligible Educational Institution for such period. Room and Board are only Qualified Higher Education Expenses for students who are enrolled at least half time.

Scheduled Date of First-Enrollment—for a dependent Beneficiary, is the month and year in which the Beneficiary turns 18 years of age. For an Independent Student over the age of 18, the scheduled date of first-enrollment is the date the account is opened. This date is used to determine eligibility for Earnings Enhancements. See the term *Fully Funded Account*.

Tuition—the mandatory educational charges required as a condition of enrollment and limited to undergraduate enrollment. It does not include nonresidence fees, laboratory fees, Room and Board nor other similar fees and charges.

Variable Earnings—the placement of all deposits in an Education Savings Account, to include the interest earned

thereon, in investments that normally provide variable rates of return that change with market conditions.

Voucher—a negotiable draft payable from the Louisiana Education Tuition and Savings Fund. All Vouchers issued by the LATTA shall bear an expiration date.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:181876 (November 2001).

Chapter 3. Education Savings Account

§301. Education Savings Accounts

A. An Education Savings Account is established on behalf of a designated Beneficiary to provide the funding necessary for the Beneficiary to acquire an undergraduate certificate, associate degree, or undergraduate degree. Education Savings Accounts may offer investment options that provide either Fixed Earnings or Variable Earnings.

B. Program Enrollment Period. An account may be opened and an eligible Beneficiary may be enrolled at any time during the calendar year.

C. Completing the Owner's Agreement

1. This agreement must be completed, in full, by the Account Owner.

2. The Account Owner shall designate a Beneficiary.

3. The Account Owner may designate a limited power of attorney to another person who would be authorized to act on the Account Owner's behalf, in the event the Account Owner became incapacitated.

4. Transfer of Account Ownership is not permitted, except in the case of the death of an Account Owner.

a. The Account Owner may designate a person who will become the substitute Account Owner in the event of the original Account Owner's death.

b. Eligibility for Earnings Enhancements will be based on the substitute Account Owner's classification at the time of the original Account Owner's death.

c. In the event of the death of an Account Owner who has not named a substitute Account Owner, the account shall be terminated and the account shall be refunded to the Beneficiary, if designated to receive the refund by the Account Owner, or to the Account Owner's estate.

5. Only the Account Owner or the Beneficiary may be designated to receive refunds from the account. In the event of the death of the Account Owner when the Account Owner is designated to receive the refund and there is no substitute Account Owner named, the refund shall be made to the Account Owner's estate.

D. Agreement to Terms. Upon executing a Owner's Agreement, the Account Owner certifies that he understands and agrees to the following statements.

1. Admission to a Postsecondary Educational Institution—that participation in the START Program does not guarantee that a Beneficiary will be admitted to any institution of postsecondary education;

2. Payment of Full Tuition—that participation in the START Program does not guarantee that the full cost of the Beneficiary's Tuition will be paid at an institution of postsecondary education nor does it guarantee enrollment as a resident student;

3. Maintenance of Continuous Enrollment—that once admitted to an institution of postsecondary education, participation in the START Program does not guarantee that the Beneficiary will be permitted to continuously enroll or receive a degree, diploma, or any other affirmation of program completion;

4. Guarantee of Redemption Value—that the LATTA guarantees payment of the Redemption Value of an Education Savings Account that is invested in Fixed Earnings, subject to the limitations imposed by R.S. 17:3098; however, the LATTA does not guarantee the value of an Education Savings Account that is invested in Variable Earnings.

5. Conditions for Payment of Education Expenses—that payments for Qualified Higher Education Expenses under the START Saving Program are conditional upon the Beneficiary's acceptance and enrollment at an Eligible Educational Institution;

6. Fees.

a. That except for penalties which may be imposed on refunds, the LATTA shall not charge fees for the opening or the maintenance of a Fixed Earnings account at standard fees established by the LATTA ;

b. That fees imposed by investment institutions for opening or maintenance of Variable Earnings accounts may be charged to the Account Owner.

c. That financial and investment institutions may be authorized by the LATTA to offer prospective owners information and assistance in opening a START Program account.

E. Acceptance of the Owner's Agreement

1. A properly completed and submitted Owner's Agreement will be accepted upon receipt.

2. Upon acceptance of the Owner's Agreement, the LATTA will establish the account of the named Beneficiary.

F. Citizenship Requirements. Both the Account Owner and Beneficiary must meet the following citizenship requirements:

1. be a United States citizen; or

2. be a permanent resident of the United States as defined by the U.S. Immigration and Naturalization Service (INS) and provide copies of INS documentation with the submission of the Owner's Agreement.

G. Residency Requirements

1. On the date an account is opened, either the Account Owner or his designated Beneficiary must be a Louisiana Resident, as defined in §107 of these rules.

2. The LATTA may request documentation to clarify circumstances and formulate a decision that considers all facts relevant to residency.

H. Providing Personal Information

1. The Account Owner is required to disclose personal information in the Owner's Agreement, including:

a. his Social Security number;

b. the designated Beneficiary's Social Security number;

c. the Beneficiary's date of birth;

d. the familial relationship between the Account Owner and the designated Beneficiary, if any;

e. the Account Owner's prior year's federal adjusted gross income amount as reported to the Internal Revenue Service.

2. By signing the Owner's Agreement, the Account Owner provides written authorization for the LATTA to access his annual tax records through the Louisiana Department of Revenue, for the purposes of verifying federal adjusted gross income.

3. By signing the Owner's Agreement, the Account Owner certifies that both Account Owner and Beneficiary are United States Citizens or permanent residents of the United States as defined by the U.S. Immigration and Naturalization Service (INS) and, if permanent residents have provided copies of INS documentation with the submission of the Application and Owner's Agreement, and that either Account Owner or Beneficiary is and has been a Louisiana Resident for 12 consecutive months.

4. Social Security numbers will be used for purposes of federal income tax reporting and to access individual account information for administrative purposes [see §315].

I. First Disbursement Restriction. A minimum of one year must lapse between the date the Account Owner makes the first deposit opening an account and the first disbursement from the account to pay a Beneficiary's Qualified Higher Education Expenses, which will normally be the Beneficiary's projected scheduled date of first-enrollment in an Eligible Educational Institution.

J. Number of Accounts for a Beneficiary. There is no limit on the number of Education Savings Accounts that may be opened for one Beneficiary by different Account Owners; however, the cumulative credits in all accounts for the same Beneficiary may not exceed the Maximum Allowable Account Balance for that Beneficiary and the cumulative credits in all Education Savings Accounts for the same Beneficiary will be used to determine when these accounts are Fully Funded and are no longer eligible for Earnings Enhancements.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:713 (June 1997), amended LR 24:436 (March 1998), LR 24:1269 (July 1998), LR 25:1794 (October 1999), LR 26:2262 (October 2000), LR 27:1878 (November 2001).

§303. Account Owner Classifications

A. An Account Owner shall be classified by the Authority under one of the following classifications:

1. a person or persons determined by the authority to be the parent, grandparent, or court ordered custodian of the person being designated as Beneficiary of the account or who claim the person being designated as Beneficiary as a dependent on their federal income tax return, or an independent student and, at the time of the initiation of the agreement, the person or Beneficiary is a resident of the state; or

2. a person or persons determined by the authority to be a Member of the Family of the Beneficiary and, at the time of the initiation of the agreement, the Beneficiary is a resident of the state; or

3. any Other Person and, at the time of the initiation of the agreement, the Beneficiary is a resident of the state; or

4. any Other Person who, at the time of the initiation of the agreement, is a resident of the state and the Beneficiary is not a resident of the state.

B. In order to qualify as an Account Owner in any classification, a natural person, to include an Independent Student, must be of the age of majority under Louisiana law.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 27:1879 (November 2001).

§305. Deposits to Education Savings Accounts

A. Application Fee and Initial Deposit Amount

1. No application fee will be charged to participants applying for a START Program account directly to the LATTA.

2. Financial and investment institutions may be authorized by the LATTA to offer assistance in establishing a START Program account. (See Fees in §301.D.6.)

3. An initial deposit is not required to open an Education Savings Account; however, a deposit of at least \$10 in whole dollar amounts must be made within 60 days from the date on the letter of notification of approval of the account.

4. A lump sum deposit may not exceed the Maximum Allowable Account Balance [see §107].

B. Deposit Options

1. The Account Owner shall select one of the following deposit options during the completion of the Owners Agreement; however, the Account Owner may change the monthly deposit amount at any time and the payment method by notifying the LATTA:

a. occasional lump sum payment(s) made directly to the LATTA or to a LATTA approved investment institution;

b. monthly payments made directly to the LATTA or to a LATTA-approved financial or investment institution;

c. automatic account debit, direct monthly transfer from the Account Owner's checking or savings account to the LATTA or a LATTA approved investment institution;

d. payroll deduction, if available through the Account Owner's employer.

2. Account Owners are encouraged to maintain a schedule of regular monthly deposits.

3. After acceptance of the Owner's Agreement and annually thereafter, the LATTA will project the amount of the monthly deposit that will assure the Account Owner of sufficient savings to meet the Qualified Higher Education Expenses of the Beneficiary at the scheduled date of enrollment at the selected institution, or the highest cost public institution if one was not preselected.

4. Through completion of Schedule D of the Louisiana State Income Tax Return, Account Owners may designate all or any portion of a state income tax refund due them as a deposit to their Education Savings Account. If the Account Owner has established more than one Education Savings Account, the amount of the refund identified on Schedule D of the Louisiana State Income Tax Return shall be divided by the number of accounts owned and an equal share shall be deposited into each such account.

C. Limitations on Deposits

1. All deposits must be rendered in whole dollar amounts of at least \$10 and must be made in cash (check, money order, credit or debit card), defined as any of the deposit options listed in §305.B.1.

2. Once the account becomes Fully Funded [see §107], it will no longer be considered for Earnings

Enhancements, regardless of the total amount of annual deposits that may be subsequently made to the account.

3. Once the cumulative contributions, earnings on contributions, Earnings Enhancements and interest accrued thereon has reached or exceeded the Maximum Allowable Account Balance [see §107], principal deposits will no longer be accepted to the account.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1270 (July 1998). Amended LR 26:2263 (October 2000), LR 27:1880 (November 2001).

§307. Allocation of Earnings Enhancements

A. Earnings Enhancements are state-appropriated funds allocated to an Education Savings Account, on behalf of the Beneficiary named in the account.

1. The Earnings Enhancements are calculated based upon the Account Owner's annual federal adjusted gross income for the year immediately preceding the year for which the Beneficiary of the account is being considered for an Earnings Enhancement and the Account Owner's total annual deposits of principal.

2. Although allocated to individual accounts, Earnings Enhancements are state funds and shall be held in an escrow account maintained by the state treasurer until disbursed to pay Qualified Higher Education Expenses at an Eligible Education Institution as set forth in §307.G.

B. Providing Proof of Annual Federal Adjusted Gross Income

1. The Account Owner's annual federal adjusted gross income for the year immediately preceding the year for which the Beneficiary of the account is being considered for an Earnings Enhancement is used in computing the annual Earnings Enhancement allocation.

2. To be eligible in any given year for a Earnings Enhancement in accordance with §307.D., the Account Owner of an Education Savings Account must:

a. authorize the LATTA to access the Account Owner's state tax return filed with the Louisiana Department of Revenue and the access results in a valid adjusted gross income for the Account Owner being reported to LATTA by the Louisiana Department of Revenue; or

b. provide the LATTA a copy of his federal or state income tax return filed for the year immediately preceding the year in which the Beneficiary of the account is being considered for an Earnings Enhancement.

3. In completing the Owner's Agreement, the Account Owner of an Education Savings Account authorizes the LATTA to access his records with the Louisiana Department of Revenue, for the purposes of verifying the Account Owner's federal adjusted gross income. In the event the Account Owner did not file his tax information with the Louisiana Department of Revenue, he must provide the LATTA with:

a. a copy of the form filed with the Internal Revenue Service; or

b. a notarized statement as to why no income tax filing was required of the Account Owner.

4. Earnings Enhancements at the rate prescribed in §307.D. cannot be allocated to an Education Savings Account unless the LATTA has received verification of an Account Owner's federal adjusted gross income by the

deadline contained in §307.B.5. Interest on Earnings Enhancements will not accrue to the benefit of an Education Savings Account until the LATTA has allocated the Earnings Enhancement to the account.

5. If an Account Owner is classified in §305.A.1 or 2 and fails to provide the tax documents required by §307.B.2. by December 31 of the year for which the Beneficiary of the account is being considered for an Earnings Enhancement, as an exception to §307.D., the account shall be allocated an Earnings Enhancement for the year being considered at the Earnings Enhancement rate shown in §307.D. for Account Owners who are Members of the Family of the Beneficiary who report an adjusted gross income of \$100,000 and above.

6. Example: An Account Owner has made deposits in a START account for a Beneficiary during calendar year 2002 and desires to receive the highest Earnings Enhancement rate authorized for those deposits. If the Account Owner did not file a Louisiana Income Tax Return for the tax year 2001 or is notified by LATTA that the Louisiana Department of Revenue could not validate his federal adjusted gross income, he must file the tax documents for tax year 2001 required by §307.B.2.b. with LATTA by December 31, 2002, or his Earnings Enhancement rate will be defaulted to the rate for Account Owners who are Members of the Family of the Beneficiary who report an adjusted gross income of \$100,000 and above.

C. Availability of Earnings Enhancements

1. The availability of Earnings Enhancements to be allocated to Education Savings Accounts is subject to an appropriation by the Louisiana Legislature.

2. In the event that sufficient Earnings Enhancements are not appropriated during any given year, the LATTA shall reduce Earnings Enhancement rates, pro rata, as required to limit Earnings Enhancements to the amount appropriated.

D. Earnings Enhancement Rates. The Earnings Enhancement rates applicable to an Education Savings Account established by a person or persons identified in §303.A.1 and 2 are determined by the federal adjusted gross income of the Account Owner, according to the following schedule:

Reported Federal Adjusted Gross Income	Earnings Enhancement Rate*
0 to \$29,999	14 percent
\$30,000 to \$44,999	12 percent
\$45,000 to \$59,999	9 percent
\$60,000 to \$74,999	6 percent
\$75,000 to \$99,999	4 percent
\$100,000 and above	2 percent

*Rates may be reduced pro rata, to limit Earnings Enhancements to amounts appropriated by the Legislature.

E. The Earnings Enhancement rates applicable to an Education Savings Account established by a person or persons identified in §303.A.3 shall be fixed at the Earnings Enhancement rate for Account Owners who are Members of the Family of the Beneficiary who report an adjusted gross income of \$100,000 and above.

F. An Account established by an authorized Account Owner identified in §303.A.4 shall not be eligible for an Earnings Enhancement.

G. Restrictions on Allocation of Earnings Enhancements to Education Savings Accounts. The allocation of Earnings

Enhancements is limited to Education Savings Accounts which:

1. are not Fully Funded Accounts (See §107); and
2. have an Account Owner who falls under one of the classifications described in §303.A.1, 2, or 3 in the year for which an Earnings Enhancement is allocated.

H. Frequency of Allocation of Earnings Enhancements to Education Savings Accounts. Earnings Enhancements will be allocated annually, posted to the accounts as of January 1 of the following year and reported to Account Owners before March 31 following the January allocation.

I. Rate of Interest Earned on Earnings Enhancements. The rate of interest earned on Earnings Enhancements shall be the rate of return earned on the Savings Enhancement Fund as reported by the state treasurer.

J. Restriction on Use of Earnings Enhancements

1. Earnings Enhancements, and any interest which may accrue thereon, may only be expended in payment of the Beneficiary's Qualified Higher Education Expenses, or a portion thereof, at an Eligible Educational Institution.

2. Earnings Enhancements, although allocated to a Beneficiary's account and reported on the Account Owner's annual statement, are assets of the state of Louisiana until disbursed to pay a Beneficiary's Qualified Higher Education Expenses at an Eligible Education Institution.

3. Earnings Enhancements are not the property of the Account Owner nor Beneficiary, until disbursed as payment of Qualified Education Expenses.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1271 (July 1998), LR 25:1794 (October 1999), LR 26:1263 (June 2000), LR 26:2263 (October 2000), LR 27:37 (January 2001), LR 27:1880 (November 2001).

§309. Disbursement of Account Funds for Payment of Qualified Higher Education Expenses of a Beneficiary

A. Vouchers

1. Prior to each Educational Term, the LATTA will forward to the Beneficiary a Voucher with a statement specifying the value of the Beneficiary's account, classified as Deposits or Earnings Enhancements that may be expended for Qualified Higher Education Expenses, and instructions for completion and submission of the Voucher.

2. The Beneficiary shall complete the Voucher by inserting the amount of the funds to be withdrawn and then signing it. The amount of funds to be withdrawn shall not exceed the Beneficiary's actual Qualified Higher Education Expenses for the Educational Term attended.

3. Upon completion, the Beneficiary shall submit the Voucher to the institution he shall attend.

B. Rate of Expenditure

1. As authorized by the Beneficiary on a payment Voucher, the amount to be disbursed from an account shall be drawn from deposits (including earnings on deposits) and Earnings Enhancements (including earnings on Earnings Enhancements) in the same ratio as these funds bear to the total value of all accounts for the same Beneficiary as of the date of the disbursement.

2. For an Educational Term, the Beneficiary may not withdraw an amount in excess of the Qualified Higher

Education Expenses for that term or the value of the account or that amount calculated under 1, above, whichever is less.

C. Payments to Eligible Educational Institutions

1. Upon the Beneficiary's enrollment and the institution's receipt of a Voucher, the institution may bill the START program for the Qualified Higher Education Expenses of the Beneficiary, up to the amount specified on the Voucher or the Beneficiary's actual Qualified Higher Education Expenses for that Educational Term, whichever is less.

2. The institution shall bill the START program by endorsing the Voucher and submitting it to LATTA. Vouchers shall be submitted in batches. Submission of a Voucher is certification by an institution that the amount of the Voucher does not exceed the Beneficiary's actual Qualified Higher Education Expenses for that Educational Term, and the Beneficiary has enrolled.

3. Upon receipt of the Voucher(s), the LATTA will disburse funds from the appropriate accounts, consolidate and forward payment directly to the institution.

4. The LATTA will make all payments for Qualified Higher Education Expenses directly to the Eligible Educational Institution.

5. No payments by LATTA for Qualified Higher Education Expenses shall be disbursed directly to the Beneficiary.

6. Payments forwarded to an institution by LATTA on behalf of a Beneficiary which exceed institutional charges shall be promptly refunded to the Beneficiary for payment of other Qualified Higher Education Expenses.

D. Failure to Attend and Withdrawal During an Educational Term.

1. If the designated Beneficiary of an Education Savings Account enrolls, but fails to attend or withdraws from the institution prior to the end of the Educational Term and disbursements from the Education Savings Account have been used to pay all or part of his Qualified Higher Education Expenses for that Educational Term, an institutional refund to the Education Savings Account may be required.

2. If any refund is due the Beneficiary from the institution, a pro rata share of any refund of Qualified Higher Education Expenses, equal to that portion of the Qualified Higher Education Expenses paid by disbursements from the Education Savings Account, shall be made by the institution to the LATTA.

3. The LATTA will credit any refunded amount to the appropriate Education Savings Account.

E. Receipt of Scholarships

1. If the designated Beneficiary of an Education Savings Account is the recipient of a scholarship, waiver of Tuition, or similar subvention which cannot be converted into money by the Beneficiary, the Beneficiary or Beneficiary may request a refund from the Education Savings Account in the amount equal to the value of the scholarship, waiver or similar subvention up to the balance of principal and interest in the account.

2. Upon the institution's verification that the Beneficiary received a scholarship, waiver or similar subvention, the LATTA will refund, without penalty, the amount to the Account Owner or the Beneficiary, as designated in the Owner's Agreement.

F. Advanced Enrollment. A Beneficiary may enroll in an Eligible Educational Institution prior to his scheduled date of first-enrollment [see §107] and utilize Education Savings Account funds; however, a Beneficiary may not utilize funds from an Education Savings Account prior to one year from the date the Beneficiary made the first deposit opening the account.

G Part-Time Attendance and Nonconsecutive Enrollment. A Beneficiary may utilize funds in an Education Savings Account for enrollments which are nonconsecutive and for part-time attendance at an Eligible Educational Institution. Room and Board is only a Qualified Higher Education Expense for students who are enrolled at least half time.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:716 (June 1997), amended LR 24:1272 (July 1998), LR 26:2265 (October 2000), LR 27:1881 (November 2001).

§311. Termination and Refund of an Education Savings Account

A. Account Contributions. Contributions to an Education Savings Account are voluntary.

B. Account Terminations

1. The Account Owner may terminate an account at any time.

2. The LATTA may terminate an account in accordance with this subsection and §311.E.

3. The LATTA may terminate an account if no deposit of at least \$10 dollars in whole dollar amounts has been made within 60 days from the date on the letter of notification of approval of the account.

4. The LATTA may terminate an account if the Beneficiary dies and a new Beneficiary is not named within 60 days of the death.

5. The LATTA may terminate an account if the Beneficiary becomes Disabled and a new Beneficiary is not named within 60 days of the onset of the Disability.

C. Refunds

1. A partial refund of an account may only be made as described in §311.F.3. and §311.J.1.

2. All other requests for refund will result in the refund of the Redemption Value and termination of the account.

D. Designation of a Refund Recipient

1. In the Owner's Agreement, the Account Owner may designate the Beneficiary to receive refunds from the account.

2. Refunds of interest earnings will be reported as income to the individual receiving the refund for both federal and state tax purposes.

3. In the event the Beneficiary receives any refund of principal and earnings from the account, the tax consequence must be determined by the recipient.

E. Involuntary Termination of an Account with Penalty

1. The LATTA may terminate an Owner's Agreement if it finds that the Account Owner or Beneficiary provided False or Misleading Information [see §107].

2. All interest earnings on principal deposits may be withheld and forfeited, with only principal being refunded.

3. An individual who obtains program benefits by providing False or Misleading Information will be prosecuted to the full extent of the law.

F. Voluntary Termination or Partial Refund of an Account without Penalty Prior to January 1, 2002. No penalty will be assessed for accounts which are terminated and fully refunded or partially refunded prior to January 1, 2002, due to the following reasons:

1. the death of the Beneficiary; the refund shall be equal to the Redemption Value of the account and shall be made to the Account Owner;

2. the disability of the Beneficiary; the refund shall be equal to the Redemption Value of the account and shall be made to the Account Owner or the Beneficiary, as designated in the Owner's Agreement;

3. the Beneficiary receives a scholarship, waiver of Tuition, or similar subvention that the LATTA determines cannot be converted into money by the Beneficiary, to the extent the amount of the refund does not exceed the amount of the scholarship, waiver of Tuition, or similar subvention awarded to the Beneficiary.

G Voluntary Termination of an Account with Penalty Prior to January 1, 2002

1. Refunds for any reason other than those specified in §311.E and F prior to January 1, 2002 will be assessed a penalty of 10 percent of interest earned on principal deposits accumulated in said account at the time of termination which has not been expended for Qualified Higher Education Expenses.

2. Reasons for voluntary account termination with penalty include, but are not limited to, the following:

a. request by an Account Owner, an Account Owner's estate or legal successor, for reasons other than those specified in §311.E and F.

b. decision not to attend; upon notification in writing that the Beneficiary has reached 18 years of age and has stated he does not intend to attend an institution of higher education;

c. upon notification in writing that the Beneficiary has completed his educational program and does not plan to pursue further education.

3. Refunds made under the provisions of §311.G shall be equal to the Redemption Value of the Education Savings Account at the time of the refund minus 10 percent of accumulated interest earned on principal deposits which has not been expended for Qualified Higher Education Expenses, and shall be made to the person designated in the Owner's Agreement.

H. Voluntary Termination of an Account After December 31, 2001

1. Refunds shall be equal to the Redemption Value of the Education Savings Account at the time of the refund, and shall be made to the person designated in the Owner's Agreement.

2. The person receiving the refund shall be responsible for any state or federal income tax that may be payable due to the refund.

I. Effective Date of Account Termination. Account termination shall be effective at midnight on the business day on which the request for account termination and all supporting documents are received. Accounts will be

credited with interest earned on principal deposits through the effective date of the closure of the account.

J. Refund Payments

1. Payment of refunds for voluntary termination or partial refunds of accounts without penalty pursuant to §311.F and §311.H shall be made within thirty days of the date on which the account was terminated. The termination refund shall consist of the principal remaining in the account and interest remaining in the account accrued on the principal through the end of the last calendar year. Interest earned in excess of \$3.00 during the calendar year of termination will be refunded on or about the forty-fifth day after the start of the next calendar year. Interest earned of \$3.00 or less during the calendar year of termination will be forfeited to the Louisiana Education And Tuition Savings Fund.

2. Payment of refunds for voluntary termination of accounts with penalty pursuant to §311.G shall be made by or about the tenth day following the date on which the account was terminated. The refund shall consist of the principal remaining in the account and interest remaining in the account accrued on the principal through the end of the last calendar year less the interest penalty. Interest in excess of \$3.00 earned during the calendar year of termination, less the interest penalty, will be refunded on or about the forty-fifth day after the start of the next calendar year. Interest earned of \$3.00 or less during the calendar year of termination will be forfeited to the Louisiana Education And Tuition Savings Fund.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:717 (June 1997), amended LR 24:1273 (July 1998), repromulgated LR 26:2265 (October 2000), amended LR 27:38 (January 2001), LR 27:1882 (November 2001).

§313. Substitution, Assignment, and Transfer

A. Substitute Beneficiary. The Beneficiary of an Education Savings Account may be changed to a substitute Beneficiary provided the Account Owner completes a Beneficiary Substitution form and the following requirements are met:

1. the substitute Beneficiary is a Member of the Family as defined under §107;

2. the substitute Beneficiary meets the citizen/resident alien requirements of §301.F, and, if the Account Owner is a nonresident of the state of Louisiana, the substitute Beneficiary meets the applicable residency requirements [see §301.G];

3. if the original Beneficiary is an Independent Student [see §107], meaning he is also the Account Owner of the account, the substitute Beneficiary must be the spouse or child of the Account Owner;

4. If the original Beneficiary is not a Member of the Family of the Account Owner, the account must be refunded to the Account Owner and a new account must be opened.

B. Assignment or Transfer of Account Ownership. The ownership of an Education Savings Account, and all interest, rights and benefits associated with such, are nontransferable.

C. Changes to the Owner's Agreement

1. The Account Owner may request changes to the Owner's Agreement.

2. Changes must be requested in writing and be signed by the Account Owner.

3. Changes which are accepted will take effect as of the date the notice is received by the LATTA.

4. The LATTA shall not be liable for acting upon inaccurate or invalid data which was submitted by the Account Owner.

5. The Account Owner will be notified by the LATTA in writing of any changes affecting the Owner's Agreement which result from changes in applicable federal and state statutes and rules.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), repromulgated LR 26:2266 (October 2000), amended LR 27:1883 (November 2001).

§315. Miscellaneous Provisions

A. Account Statements and Reports

1. The LATTA will forward to each Account Owner an annual statement of account which itemizes the:

- a. date and amount of deposits and interest earned during the prior year;
- b. total principal and interest accrued to the statement date; and
- c. total Earnings Enhancements and interest allocated to the account as of the statement date.

2. Earnings Enhancements shall be allocated annually and reported after March 1, following the Account Owners' required disclosure of their reported federal adjusted gross income for the year immediately preceding the year in which the Beneficiary of the account is being considered for an Earnings Enhancements.

3. The Account Owner must report errors on the annual statement of account to the LATTA within 60 days from the date on the account statement or the statement will be deemed correct.

B. Earned Interest

1. Interest earned on principal deposits during a calendar year will be credited to accounts and reported to Account Owners after the conclusion of the calendar year in which the interest was earned.

2. The rate of interest earned shall be the rate of return earned on the Fund as reported by the state treasurer and approved by the LATTA.

3. For the year ending December 31, 2000, the Louisiana Education Tuition and Savings Fund earned an interest rate of 6.51 percent.

4. For the year ending December 31, 2000, the Tuition Assistance Grant (TAGs) Fund earned an interest rate of 6.83 percent.

C. Refunded Amounts

1. Interest earned on an Education Savings Account which is refunded to the Account Owner or Beneficiary will be taxable for state and federal income tax purposes.

2. No later than January 31 of the year following the year of the refund, the LATTA will furnish the State Department of Revenue, the Internal Revenue Service and the recipient of the refund an Internal Revenue Service Form 1099, or whatever form is appropriate according to applicable tax codes.

D. Annual Report

1. The Account Owner of an Education Savings Account will be notified annually, in writing, of the following:

- a. the Maximum Allowable Account Balance.; and
- b. the maximum recommended account balance which is an amount equal to five times the Qualified Higher Education Expenses for the Eligible Educational Institution designated on the Owner's Agreement, projected to the date of the Beneficiary's eighteenth birthday ;or
- c. If no Eligible Educational Institution was designated on the Owner's Agreement, an amount equal to five times the Qualified Higher Education Expenses for an undergraduate course of study at the highest cost in-state eligible public educational institution projected to the date of the Beneficiary's eighteenth birthday.

2. If the Account Owner changes the institution designated on the Owner's Agreement, a revised maximum recommended account balance will be calculated and the Account Owner will be notified of any change.

E. Rule Changes. The LATTA reserves the right to amend the rules regulating the START Program's policies and procedures; however, any amendments to rules affecting participants will be published in accordance with the Administrative Procedure Act and distributed to Account Owners for public comment prior to the adoption of final rules.

F. Determination of Facts. The LATTA shall have sole discretion in making a determination of fact regarding the application of these rules.

G. Individual Accounts. The LATTA will maintain an individual account for each Beneficiary, showing the Redemption Value of the account.

H. Confidentiality of Records. All records of the LATTA identifying Account Owners and designated beneficiaries of Education Savings Accounts, amounts deposited, expended or refunded, are confidential and are not public records.

I. No Investment Direction. No Account Owner or Beneficiary of an Education Savings Account may direct the investment of funds credited to an account, except to make an election between accounts that offer investments in Fixed Earnings or Variable Earnings.

J. No Pledging of Interest as Security. No interest in an Education Savings Account may be pledged as security for a loan.

K. Excess Funds

1. Principal deposits to an Education Savings Account are no longer accepted once the account total reaches the Maximum Allowable Account Balance [see §305.C]; however, the principal and interest earned thereon may continue to earn interest and any Earnings Enhancements allocated to the account may continue to accrue interest.

2. Funds in excess of the Maximum Allowable Account Balance may remain in the account and continue to accrue interest and may be expended to an Eligible Educational Institution in accordance with §309, or upon termination of the account, will be refunded in accordance with §311.

L. Withdrawal of Funds. Funds may not be withdrawn from an Education Savings Account except as set forth in §309 and §311.

M. NSF Procedure

1. A check received for deposit to an Education Savings Account which is returned due to insufficient funds in the Owner's account on which the check is drawn, will be redeposited and processed a second time by the START Program's financial institution.

2. If the check is returned due to insufficient funds a second time, the check will be returned to the depositor.

N. Effect of a Change in Residency

1. On the date an account is opened, either the Account Owner or Beneficiary must be a resident of the state of Louisiana [see §301.G]; however, if the Account Owner or Beneficiary, or both, temporarily or permanently move to another state after the account is opened, they may continue participation in the program in accordance with the terms of the Owner's Agreement.

2. The Account Owner may elect to terminate the account or request a "rollover" of account funds to another Qualified Tuition Program. Only the principal deposited, and interest earned thereon, may be "rolled over."

3. Earnings Enhancements allocated to an Education Savings Account are not transferable nor refundable.

O. Effect on Other Financial Aid. Participation in the START Program does not disqualify a student from participating in other federal, state or private student financial aid programs; however, depending upon the regulations which govern these other programs at the time of enrollment, the Beneficiary may experience reduced eligibility for aid from these programs.

P. Change in Projected School of Enrollment

1. The Account Owner may redesignate the Beneficiary's projected school of enrollment, but not more than once annually.

2. If the change in school results in a change in the account's Fully Funded or Maximum Allowable Account Balance, the Account Owner will be notified.

Q. Abandoned Accounts. Abandoned accounts will be defined and treated in accordance with R.S. 9:151 et seq., as amended, the Louisiana Uniform Unclaimed Property Act.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23: 718 (June 1997), amended LR 24:1274 (July 1998), LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended, LR 27:1884 (November 2001).

Mark S. Riley
Assistant Executive Director

0111#012

RULE

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

Waste Tire Regulations (LAC 33:VII.10523)(SW029)

Editor's Note: The following portion of SW029, which was published as a final Rule on pages 2773-2787 of the December 20, 2000 *Louisiana Register*, is being republished to restore a date that was inadvertently changed in the Rule.

Title 33

ENVIRONMENTAL QUALITY

Part VII. Solid Waste

Subpart 2. Recycling

Chapter 105. Waste Tires

§10523. Standards and Responsibilities of Waste Tire Transporters

* * *

[See Prior Text in A]

B. A transporter authorization certificate shall be valid for a maximum of one year from the date of issuance. All transporter authorization certificates expire on June 30 of each calendar year. The administrative authority shall issue to the transporter an appropriate number of transporter decals to be placed in accordance with Subsection F of this Section.

* * *

[See Prior Text in C-G]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:41 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2778 (December 2000), repromulgated LR 27:1885 (November 2001).

James H. Brent, Ph.D.
Assistant Secretary

0111#073

RULE

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

**EPO Plan of Benefits—Prescription Drug Benefits
(LAC 32:V.325 and 701)**

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits 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, the Office has amended the provisions of the EPO Plan Document. The reason for this action is to avoid disruption of prescription drug therapy for covered employees, retirees, and their dependents.

Title 32

EMPLOYEE BENEFITS

Part V. Exclusive Provider (EPO) Plan of Benefits

Chapter 3. Medical Benefits

§325. Prescription Drug Benefits

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

B. The following drugs, medicines, and related services are not covered:

1. - 10. ...

11. drugs for treatment of impotence, except following surgical removal of the prostate gland; and

12. glucometers.

C. ...

1. Upon presentation of the Group Benefits Program health benefits identification card at a network pharmacy, the plan member will be responsible for payment of 50 percent of the cost of the drug, up to a maximum of \$40 per prescription dispensed. The plan will pay the balance of the eligible expense for prescription drugs dispensed at a network pharmacy. There is a \$1000 per person per calendar year out-of-pocket threshold for eligible prescription drug expenses. Once this threshold is reached, that is, the plan member has paid \$1000 of co-insurance/co-payments for eligible prescription drug expenses, the Plan Member will be responsible for a \$15 co-pay for brand name drugs, with no co-pay for generic drugs. The plan will pay the balance of the eligible expense for prescription drugs dispensed at a network pharmacy.

NOTE: For the period July 1, 2001 through December 31, 2001, the out-of-pocket threshold will be \$500 per person. On January 1, the threshold will be re-set to \$1000 for calendar year 2002 and each subsequent year.

2. ...

3. If the plan member obtains a prescription drug from a non-network pharmacy in state, reimbursement will be limited to 50 percent of the amount that would have been paid if the drug had been dispensed at a network pharmacy. If the plan member obtains a prescription drug from a non-network pharmacy out of state, benefits will be limited to 80 percent of the amount that would have been paid if the drug had been dispensed at a network pharmacy.

4. Regardless of where the prescription drug is obtained, eligible expenses for brand name drugs will be limited to the prescription benefits manager's maximum allowable charge for the drug dispensed.

5. Prescription drug dispensing and refills will be limited in accordance with protocols established by the prescription benefits manager, including the following limitations:

a. up to a 34-day supply of drugs may be dispensed at one time; and

b. refills will be available only after 75 percent of drugs previously dispensed should have been consumed.

6. *Brand drug* the trademark name of a drug approved by the U. S. Food and Drug Administration.

7. *Generic drug* a chemically equivalent copy of a brand drug.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1815 (October 1999), amended LR 27:718 (May 2001), LR 27:1886 (November 2001).

Chapter 7. Schedule of Benefits – EPO

§701. Comprehensive Medical Benefits

A. ...

1. - 3. ...

4. Prescription Drugs (Not subject to deductible)

Network Pharmacy	Member pays 50 percent of drug costs at point of purchase.
Maximum Co-Payment	\$40 per Prescription Dispensed
Out-of-Pocket Threshold	\$1000 per Person, per Calendar Year
Co-Pay after Threshold Is Reached:	
Brand	\$15
Generic	No Co-Pay
Plan Pays Balance of Eligible Expense	
NOTE: Out-of-pocket threshold - \$500 per person, for the period July 1 – December 31, 2001	
Non-Network Pharmacy	Member pays full drug costs at point of purchase.
In-State	Reimbursement Limited to 50% of Amount Payable by Plan at Network Pharmacy
Out-of-State	Reimbursement Limited to 80% of Amount Payable by Plan at Network Pharmacy

B. - G ...

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 25:1823 (October 1999), amended LR 26:487 (March 2000), LR 27:719 (May 2001), LR 27:1886 (November 2001).

A. Kip Wall
Chief Executive Officer

0111#044

RULE

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

**PPO Plan of Benefits—Prescription Drug Benefits
(LAC 32:III.323 and 701)**

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits 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, the Office finds that it is necessary to revise and amend provisions of the PPO Plan Document. The reason for this action is to avoid disruption of prescription drug therapy for covered employees, retirees, and their dependents.

Accordingly, the Office of Group Benefits hereby amends the following Rule.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 3. Medical Benefits

§323. Prescription Drug Benefits

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

B. The following drugs, medicines, and related services are not covered:

1. - 10. ...

11. drugs for treatment of impotence, except following surgical removal of the prostate gland; and

12. glucometers.

C. ...

1. Upon presentation of the Group Benefits Program health benefits identification card at a network pharmacy, the plan member will be responsible for payment of 50 percent of the cost of the drug, up to a maximum of \$40 per prescription dispensed. The plan will pay the balance of the eligible expense for prescription drugs dispensed at a

network pharmacy. There is a \$1000 per person per calendar year out-of-pocket threshold for eligible prescription drug expenses. Once this threshold is reached, that is, the plan member has paid \$1000 of co-insurance/co-payments for eligible prescription drug expenses, the plan member will be responsible for a \$15 co-pay for brand name drugs, with no co-pay for generic drugs. The plan will pay the balance of the eligible expense for prescription drugs dispensed at a network pharmacy.

NOTE: For the period July 1, 2001 through December 31, 2001, the out-of-pocket threshold will be \$500 per person. On January 1, the threshold will be re-set to \$1000 for calendar year 2002 and each subsequent year.

2. ...

3. If the plan member obtains a prescription drug from a non-network pharmacy in state, reimbursement will be limited to 50 percent of the amount that would have been paid if the drug had been dispensed at a network pharmacy. If the plan member obtains a prescription drug from a non-network pharmacy out of state, benefits will be limited to 80 percent of the amount that would have been paid if the drug had been dispensed at a network pharmacy.

4. Regardless of where the prescription drug is obtained, eligible expenses for brand name drugs will be limited to the prescription benefits manager's maximum allowable charge for the drug dispensed.

5. Prescription drug dispensing and refills will be limited in accordance with protocols established by the prescription benefits manager, including the following limitations:

a. up to a 34-day supply of drugs may be dispensed at one time; and

b. refills will be available only after 75 percent of drugs previously dispensed should have been consumed.

6. *Brand Drug* the trademark name of a drug approved by the U. S. Food and Drug Administration.

7. *Generic Drug* a chemically equivalent copy of a brand drug.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1815 (October 1999), amended LR 27:720 (May 2001), LR 27:1887 (November 2001).

**Chapter 7. Schedule of Benefits—PPO
§701 Comprehensive Medical Benefits**

A. ...

1. - 3. ...

4. Prescription Drugs (Not subject to deductible)

Network Pharmacy	Member pays 50 percent of drug costs at point of purchase.
Maximum Co-Payment	\$40 per Prescription Dispensed
Out-of-Pocket Threshold	\$1000 per Person, per Calendar Year
Co-Pay after Threshold Is Reached:	
Brand	\$15
Generic	No Co -Pay
Plan Pays Balance of Eligible Expense	
NOTE: Out -of-pocket threshold - \$500 per person, for the period July 1 - December 31, 2001	

Non-Network Pharmacy	Member pays full drug costs at point of purchase.
In-State	Reimbursement Limited to 50% of Amount Payable by Plan at Network Pharmacy
Out-of-State	Reimbursement Limited to 80% of Amount Payable by Plan at Network Pharmacy

B. - G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:871(C) and 874(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1823 (October 1999), amended LR 26:487 (March 2000), LR 27:722 (May 2001), LR 27:1887 (November 2001).

A. Kip Wall
Chief Executive Officer

0111#045

RULE

**Office of the Governor
Patients' Compensation Fund Oversight Board**

**Medical Reimbursement Schedule and Mileage
(LAC 37:III.Chapter 19)**

The Patient's Compensation Fund Oversight Board has amended LAC 37:III.Chapter 19, as follows, as authorized by the Louisiana Medical Malpractice Act, R.S. 40:1299.41 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Previously, the Patient's Compensation Fund was required to reimburse healthcare providers the total amount of their charges for services rendered to claimants after the date of the malpractice, and those charges are increasing. In an effort to preserve its fiscal integrity, the Fund has adopted the reimbursement schedule promulgated by the Louisiana Department of Labor as the maximum reimbursement for such services. Also, the Patient's Compensation Fund rules previously did not provide for any payment for mileage for vehicles furnished by the Fund, and the Fund has codified the existing practice of paying partial reimbursement in those cases.

The Patient's Compensation Fund Oversight Board amends LAC 37:III.Chapter 19, to incorporate the Louisiana Department of Labor reimbursement schedule as the maximum allowable reimbursement to providers for medical services provided to claimants and to provide for mileage reimbursement for vehicles provided to claimants by the Patient's Compensation Fund.

**Title 37
INSURANCE**

**Part III. Patient's Compensation Fund Oversight Board
Chapter 19. Future Medical Care and Related Benefits**

§1901. Scope of Chapter

A. ...

B. The rules of Chapter 19 shall be applicable to all malpractice claims, including those brought under R.S. 40:1299.39.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 19:1566 (December 1993), amended LR 27:1888 (November 2001).

§1903. Definitions

Future Medical Care and Related Benefits: Call reasonable medical, surgical, hospitalization, physical rehabilitation, and custodial services, and includes drugs, prosthetic devices, and other similar materials reasonably necessary in the provision of such services. The fund's obligation to provide these benefits or to reimburse the claimant for those benefits is limited to the lesser of the amount billed therefor or the maximum amount allowed under the reimbursement schedule.

* * *

Reimbursement Schedule: the most recent reimbursement schedules promulgated by the Department of Labor, Office of Workers' Compensation pursuant to R.S. 23:1034.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 19:1566 (December 1993), amended LR 27:1888 (November 2001).

§1905. Obligation of the Fund

A. The fund shall provide and/or fund the cost of all future medical care and related benefits in the amounts provided herein, after the date of the accident and continuing as long as medical or surgical attention is reasonably necessary, that are made necessary by the health care provider's malpractice, pursuant to a final judgment issued by a court of competent jurisdiction or as agreed to in a settlement reached between a patient and the fund, unless the patient refuses to allow the future medical care and related benefits to be furnished.

B. The fund acknowledges that a court is required neither to choose the best medical treatment nor the most cost-efficient treatment for a patient. The intent of Chapter 19 is to distinguish between those devices which are reasonably necessary to a patient's treatment and those which are devices of convenience or non-essential specialty items for a patient, and to provide for the maximum allowable reimbursement for those necessary future medical care and related benefits.

C. Pursuant to the Act, the board has been, expressly and/or implicitly, vested with the responsibility and authority for the management, administration, operation, and defense of the fund and, as a prudent administrator, it must insure that all future medical care costs and related benefits are reasonable and commensurate with the usual and customary costs of such care in the patient's community. Therefore, the amount paid by the fund for future medical care and related benefits shall be the lesser of the amount billed for said care or benefit or the maximum amount allowed under the reimbursement schedule.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D. (3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 19:1566 (December 1993), amended LR 27:1888 (November 2001).

§1907. Claims for Future Medical Care and Related Benefits

A. ...

B. If a patient's claim for future medical care and related benefits is extremely complex, is disputed or is in excess of the reimbursement schedule, then the fund may refer the matter to medical or other experts or to its counsel for review or litigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D. (3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 19:1566 (December 1993), amended LR 27:1889 (November 2001).

§1909. Attorneys; Medical Experts; Architects; Adjusters

A.1. An attorney chosen to represent the fund pursuant to §1907 shall be an independent contractor of the state of Louisiana, shall meet all applicable requirements for an outside contractor retained by the state of Louisiana, and shall be chosen by the Risk Director (or his successor) or his designee. The attorney shall be licensed to practice law in the state of Louisiana.

A.2. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D. (3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR.19:1566 (December 1993), amended LR 27:1889 (November 2001).

§1911. Examinations; Notice Requirements

A. - B. ...

C. Within 30 days after the examination, the patient shall be compensated, by the party requesting the examination, for all necessary and reasonable expenses incidental to submitting to the examination, including the reasonable costs of travel, meals, lodging, or other direct expenses as provided elsewhere in these regulations.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D. (3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR19:1567 (December 1993), amended LR 27:1889 (November 2001).

§1913. Choice of Health Care Provider

A. A patient entitled to future medical care and related benefits, as determined under Chapter 19, shall be entitled to evaluation, diagnosis, and treatment by the health care providers of the patient's choice provided, however, that the health care provider rendering such evaluation, diagnosis, or treatment shall be licensed to practice medicine in Louisiana or by the state in which the patient resides. Notwithstanding the patient's right to choose his health care provider, the amount which the fund shall be required to pay or reimburse any healthcare provider shall be the lesser of the provider's billed amount or the reimbursement schedule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 19:1567 (December 1993), amended LR 27:1889 (November 2001).

§1915. Psychological /Psychiatric Treatment and Counseling

A. The fund will provide and/or fund, at the lesser of the billed amount or the maximum amount allowed under the reimbursement schedule, psychiatric/psychological testing, evaluation, diagnosis and treatment of a patient entitled to future medical care and related benefits, as determined under Chapter 19, where these medical services are reasonable and are made necessary by the health care provider's malpractice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 19:1567 (December 1993), amended LR 27:1889 (November 2001).

§1917. Nursing Care; Sitter Care

A. The fund will provide and/or fund, at the lesser of the billed amount or the maximum amount allowed under the reimbursement schedule, inpatient or outpatient nursing or sitter care when such care is required to provide reasonable medical, surgical, hospitalization, physical rehabilitation, or custodial services made necessary by the health care provider's malpractice, subject to the following limitations.

1. - 4. ...

B.1. Providers of nursing or sitter care shall be funded, at the lesser of the billed amount or the maximum amount allowed under the reimbursement schedule. If the reimbursement schedule contains no applicable rate for such care, then the care shall be funded at the lesser of the billed amount or the usual and customary rate charged by similarly licensed or qualified healthcare providers in a patient's home state, city, or town. However, nursing or sitter care provided by members of the patient's family or household will be funded at a rate not to exceed \$6 per hour regardless of the licensure or qualification of the provider.

2. However, notwithstanding the foregoing, future nursing or sitter care provided, after the effective date of the amended rules which provide for inflationary adjustments, by members of the patient's family or household will be funded at a rate not to exceed the equivalent of \$6 per hour plus inflation at the annual consumer price index published by the United States Bureau of Labor Statistics for each year between the year of original publication of the rate (1993) and the date of service, regardless of the licensure or qualification of the provider.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D. (3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 19:1567 (December 1993), amended LR 27:1889 (November 2001).

§1923. Ancillary Cost; Mileage

A. ...

B.1. Vehicle not provided by the fund: The fund will reimburse a patient (or the patient's family or care givers) entitled to future medical care and related benefits under §1923 for actual mileage to and from physician appointments or treatment at a rate not to exceed \$.24 per mile or the current mileage rate allowance under applicable state guidelines.

2. Vehicle provided by the fund.

a. Fund Reimbursement. Notwithstanding Subsection B.1 or §1921.C, above, when the fund has furnished the vehicle to a patient, the fund will reimburse that patient (or that patient's family or care givers) who is entitled to future medical care and related benefits under §1923, for actual mileage to and from physician appointments or other testing or treatment, at a rate equal to fifty percent of the then applicable mileage rate.

b. Fund Credit for Non-Covered Usage. When the vehicle has been provided by the fund and the fund is required to reimburse for medically-related usage, the fund shall, however, be entitled to a credit, at the same mileage rate, for any use of the vehicle which is not eligible for reimbursement.

c. The level of expense reimbursement pursuant to §1923 shall not exceed the maximum allowable expenses under applicable state guidelines set forth in the Travel Regulations, P.P.M. 49, Louisiana Register, Vol. 16, Number 7, p. 582 or, in the case of reimbursement under Subsection B.2 above, fifty percent of that amount .

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 19:1568 (December 1993), amended LR 27:1889 (November 2001).

Kenny Aucoin
Executive Director

0111#077

RULE

Department of Health and Hospitals Board of Dentistry

Comprehensive Rule Revisions (LAC 46:XXXIII)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760(8), the Department of Health and Hospitals, Board of Dentistry hereby amends LAC 46:XXXIII.103, "Evidence of Graduation," LAC 46:XXXIII.116, "Reconsideration of Adverse Sanctions," LAC 46:XXXIII.301, "Advertising and Soliciting by Dentists," LAC 46:XXXIII.314, "Dental Services at Locations Other than Dental Offices," LAC 46:XXXIII.316 "Disclosure of Financial Interests by Referring Dental Health Care Provider," LAC 46:XXXIII.701, "Authorized Duties," LAC 46:XXXIII.710, "Administration of Local Anesthesia for Dental Purposes," LAC 46:XXXIII.903, "Initiation of Proceedings," LAC 46:XXXIII.907, "Notice of Hearing," LAC 46:XXXIII.909, "Response to Complaint; Notice of Representation," and add LAC 46:XXXIII.512, "Sanctions" and LAC 46:XXXIII.720, "Sanctions."

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Professions

Chapter 1. General Provisions

§103. Evidence of Graduation

A. - C. ...

D. The requirement that an educational program accredited by the Commission on Dental Accreditation of the American Dental Association be at a minimum of two years in length means a continuing program which is at the same institution and is for a minimum of two years. The board does not accept the accumulation of programs which are less than two years in length to satisfy this requirement.

E. In regards to dentists trained in foreign countries, the board requires those dentists to practice in the field in which they obtained the two years of post-graduate training. In other words, if a foreign trained dentist completes an approved program in endodontics, he or she must limit their practice to endodontics. If that dentist studies in a general practice residency program, he or she must practice general dentistry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Dentistry, LR 10:88 (February 1984), amended by the Department of Health and Hospitals, Board of Dentistry, LR 24:1112 (June 1998), LR 26:488 (March 2000), LR 27:1890 (November 2001).

§116. Reconsideration of Adverse Sanctions

A. - G ...

H. Any person desiring to file an application for a reconsideration with the board shall be permitted to do so only after 12 months following the board's decision or ratification of a consent decree and only once every 12 months thereafter, unless new and compelling information becomes available. If an application is denied, then that person must wait at least until the expiration of 12 months from the date appearing on the board's denial letter before submitting a subsequent application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1113 (June 1998), amended LR 27:1890 (November 2001).

Chapter 3. Dentists

§301. Advertising and Soliciting by Dentists

A. - J. ...

K. Appendages. In addition to those appendages required by law pertaining to one's business entity such as professional dental corporation (P.C.) or dental limited liability company (L.L.C.), dentists may only use those abbreviations or appendages as specified under R.S. 37:771 or other degrees earned from accredited colleges or universities after their names. Fellowships, awards, membership in academies, or non-degreed boards may be spelled out in their entirety under one's name, but not

appended to the name so as to avoid confusion to the consumer. However, fellowships, awards, memberships in academies and non-degreed boards may be appended to names in newsletters which are not intended for publication or dissemination to the public but which remain peculiar to dentists or dental hygienists. An example is the "Pelican Pouch" which is a newsletter which goes out to members of the Academy of General Dentistry. It is permissible for persons to append "F.A.G.D." after their names in newsletters such as this.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Dentistry, December 1970, amended 1971, amended and promulgated LR 13:179 (March 1987), amended by the Department of Health and Hospitals, Board of Dentistry, LR 15:966 (November 1989), LR 18:739 (July 1992), LR 20:657 (June 1994), LR 21:567 (June 1995), LR 22:23 (January 1996), LR 22:1215 (December 1996), unpromulgated LR 23:199 (February 1997), amended LR 23:1524 (November 1997), LR 25:509 (March 1999), LR 25:1476 (August 1999), LR 26:690 (April 2000), LR 27:1890 (November 2001).

§314. Dental Services at Locations Other than Dental Offices

A. - B. ...

C. However, the requirements of this rule do not apply to dentists providing dental health care services at locations within their immediate area. For purposes of this rule immediate area is defined as within 25 miles from the dentist's office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 23:1525 (November 1997), amended LR 25:513 (March 1999), LR 27:1891 (November 2001).

§316. Disclosure of Financial Interests by Referring Dental Health Care Provider

A. This rule is authorized and mandated by R.S. 37:1744 and R.S. 37:1745 and a violation of §316 will constitute a violation of either R.S. 37:776 (A)(24) or R.S. 37:777(A)(18).

B. - F. ...

G. A dental healthcare provider may make a referral of a patient outside the dental healthcare provider's group practice for provision of healthcare items or services by other healthcare providers in which the referring dental healthcare provider has a financial interest as defined in Paragraph C of this section provided that the dental healthcare provider discloses in advance to the patient his/her financial interest. This disclosure must be in writing and shall be furnished to the patient, or the patient's authorized representative, prior to or at the time of making the referral, and shall include:

1. the dental healthcare provider's name, address, and telephone number;
2. the name and address of the healthcare provider to whom the patient is being referred by the dental healthcare provider;
3. the nature of the items or services which the patient is to receive from the healthcare provider to which the patient is being referred; and

4. the existence and nature of the dental healthcare provider's financial interest in the healthcare provider to which the patient is being referred.

H. The form of the disclosure required in this section may include a signed acknowledgment by the patient or the patient's authorized representative that the required disclosure has been given.

I. Notice to a patient given substantially in the form of "Disclosure of Financial Interest" form prescribed in the Appendix to this rule shall be presumptively deemed to satisfy the disclosure requirements of this section.

J. Proportionate Return on Investment Payments or distributions by an entity representing a direct return on investment based upon a percentage of ownership shall not be deemed a payment prohibited by R.S. 37:1745.B or by §316 of these rules, provided that:

1. the amount of payment to an investor in return for the investment interest is directly proportional to the amount or value of the capital investment (including the fair market value of any pre-operational services rendered) of that investor;

2. the terms on which an investment was or is offered to an investor who is in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity must be no different from the terms offered to other investors;

3. the terms on which an investment was or is offered to an investor who is in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity must not be related to the previous or expected volume of referrals, items or services furnished, or the amount of business otherwise generated from that investor to the entity;

4. there is no requirement that an investor make referrals to, be in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity as a condition for becoming or remaining an investor;

5. the entity or any investor does not market or furnish the entity's items or services to investors differently than to non-investors; and

6. the entity does not loan funds to or guarantee a loan for an investor who is in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity if the investor uses any part of such loan to obtain the investment interest.

K. General Exceptions. Any payment, remuneration, practice or arrangement which is not prohibited by or unlawful under §1128B(b) of the Federal Social Security Act (Act), 42 U.S.C. §1320a-7b(b), as amended, with respect to health care items or services for which payment may be made under Title XVII or Title XIX of the Act, including those payments and practices sanctioned by the Secretary of the United States Department of Health and Human Services, through the Office of Inspector General, pursuant to §1128B(b)(3)(E) of the Act, through regulations promulgated at 42 C.F.R. §1001.952, as the same may hereafter be amended, shall not be deemed a payment prohibited by R.S. 37:1745.B or by §316 of these rules with respect to health care items or services for which payment may be made by any patient or private or governmental payor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and mandated by R.S. 37:1744.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 23:1527 (November 1997), amended LR 25:512 (March 1999), LR 27:1891 (November 2001).

Chapter 5. Dental Assistants

§512. Sanctions

A. Any dental assistant or expanded duty dental assistant who administers nitrous oxide inhalation anesthesia is subject to severe sanctions for practicing dentistry without a license. The dentist under whose instructions he or she performed the procedure will be subject to severe sanctions up to and including revocation of his or her dental license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 27:1892 (November 2001).

Chapter 7. Dental Hygienists

§701. Authorized Duties

A. - B. ...

1. - 10. ...

11. the administration of parenteral, intravenous (IV), inhalation sedative agent, or any general anesthetic agent.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:791 (November 1988), amended LR 15:965 (November 1989), LR 19:206 (February 1993), LR 22:22 (January 1996), LR 22:1217 (December 1996), LR 24:1116 (June 1998), LR 27:1892 (November 2001).

§710. Administration of Local Anesthesia for Dental Purposes

A. - E. ...

F. The permit to administer local anesthesia shall expire with the expiration of the dental hygienist's license to practice dental hygiene.

G ...

H. Any hygienist who is not certified by the state of Louisiana in local anesthesia and who performs such a procedure is subject to severe sanctions up to and including revocation of his/her license. The dentist under whose instructions he/she performed the procedure will be subject to severe sanctions up to and including revocation of the dentist's license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1292 (July 1998), amended LR 25:1476 (August 1999), LR 27:1892 (November 2001).

§720. Sanctions

A. Any dental hygienist who administers nitrous oxide inhalation anesthesia is subject to severe sanctions up to and including revocation of his/her license to practice dental hygiene. The dentist under whose instructions he/she performed the procedure will be subject to severe sanctions up to and including revocation of his/her dental license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 27:1892 (November 2001).

Chapter 9. Formal Adjudication

§903. Initiation of Proceedings

A. ...

B. Prior to the initiation of formal proceedings, the board shall, send correspondence to the licensee setting forth facts constituting legal cause under the law for administrative action and the statutory and/or regulatory provisions alleged to have been violated by the licensee. The correspondence shall be sent by certified, return receipt requested mail as well as by regular first class mail, or by any other means authorized by the Administrative Procedure Act or the Louisiana Code of Civil Procedure at the licensee's most current address as reflected in the official records of the board advising the licensee that he is being offered an opportunity to participate in an informal conference with a dentist(s) board member(s) to show compliance with all lawful requirements for the retention of his license in conformity with R.S. 49:961.C, that he may request a record be made at his expense, and that he has a right to counsel. The licensee shall have 10 calendar days from receipt of notice to advise the board whether he wishes to participate in such a meeting and whether he wishes a record be made of such a meeting. Said meeting shall be held no less than 10 days nor more than 30 days following receipt of said request by the board.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (4), (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1317 (October 1993), amended LR 22:1218 (December 1996), LR 27:1892 (November 2001).

§907. Notice of Hearing

A. ...

B. A written notice accompanied by the complaint of the time, date, and place of the scheduled hearing regarding the matters set forth in the complaint shall be sent to the respondent by certified mail, return-receipt-requested mail, by first class mail at the most current address for the respondent reflected in the official records of the board, or served by any other means authorized by the Administrative Procedure Act or the Louisiana Code of Civil Procedure. This notice shall include a statement of the legal authority and jurisdiction under which the hearing is to be held and shall be accompanied by a certified copy of the administrative complaint. In the event respondent fails to answer within the prescribed time, or the time as extended, the factual allegations contained within the administrative complaint shall be deemed admitted and proven by clear and convincing evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1318 (October 1993), amended LR 22:25 (January 1996), LR 25:1476 (August 1999), LR 27:1892 (November 2001).

§909. Response to Complaint; Notice of Representation

A. Within 15 days of service of the complaint, or such longer time as the committee, on motion of the respondent may permit, the respondent may answer the complaint, admitting or denying each of the allegations of fact and of law set forth therein. Any matters admitted by respondent

shall be deemed proved and established for purposes of adjudication. In the event that respondent does not file a response to the complaint, all matters asserted therein shall be deemed admitted.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(4), (5) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:1318 (October 1993), LR 27:1892 (November 2001).

C. Barry Ogden
Executive Director

0111#019

RULE

Department of Health and Hospitals Board of Dentistry

Restricted Licenses; Adverse Sanctions; Temporary Licenses; Licensure by Credentials; Dental Assistant Duties; Curriculum Development for Expanded Duty Dental Assistants; Local Anesthesia; Air Abrasion Units; Exemptions; and Violations
(LAC 46:XXXIII.105, 116, 120, 306, 502, 503, 706, 710, 1305, 1607, and 1619)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), the Department of Health and Hospitals, Board of Dentistry hereby amends LAC 46:XXXIII.105, "Restricted Licensees," 116 "Reconsideration of Adverse Sanctions," 120 "Temporary Licenses," 306 "Requirements of Applicants for Licensure by Credentials"(Dentists), 502 "Authorized Duties of Expanded Duty Dental Assistants," 503 "Guide to Curriculum Development for Expanded Duty Dental Assistants," 706 "Requirements of Applicants for Licensure by Credentials"(Hygienists), 710 "Administration of Local Anesthesia For Dental Purposes," 1305 "Air Abrasion Units," 1607 "Exemptions," and 1619 "Violations."

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Professions

Chapter 1. General Provisions

§105. Restricted Licensees

A. All applicants for a restricted license must successfully complete the Louisiana State Board of Dentistry examination in jurisprudence within 60 days of receiving said license, except those licenses issued for less than one year.

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 21:571 (June 1995), amended LR 22:23 (January 1996), LR 23:1529 (November 1997), LR 27:1893 (November 2001).

§116. Reconsideration of Adverse Sanctions

A. - C. ...

D. If the committee decides that the application is without substantial merit, it shall so inform the officers of

the board and, thereafter, one officer shall be appointed to notify the applicant, in writing, of said unfavorable action. The applicant is not thereafter entitled to appear before the full board relative to this application; only applications which have been found to have substantial merit by the committee are to be submitted to the full board.

E. The full board, at its next meeting, may consider those applicants found by the committee to have substantial merit in open meeting if requested to do so by the applicant. In the absence of such request, the board shall entertain the matter in executive session. In the course of the board's review, if it deems necessary, it may require the applicant and all supporting references to appear in person before the board for the purpose of affording the board an opportunity to interview each person first hand. All expenses for the attendance of the applicant and his/her personal references shall be borne by the applicant. Moreover, the board shall prescribe time limitations for all speakers appearing before it and order such other considerations as will promote a fair and orderly meeting.

F. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1113 (June 1998), amended LR 27:1893 (November 2001).

§120. Temporary Licenses

A. Under R.S. 37:760(6), the board is authorized to issue licenses in conformity with the Louisiana Dental Practice Act. However, under R.S. 37:752(8), dentists and dental hygienists may obtain a temporary license without satisfying all licensing requirements of the Louisiana Dental Practice Act provided the applicant applies for a full license by taking an examination at the next time the clinical licensure examination is given by the board or by applying for licensure by credentials for the nearest scheduled board meeting. In order to protect the public and to avoid abuses of this exemption, the board shall not award a temporary license to any dentist under the provisions of R.S. 37:752(8), and will not award a temporary license to any dental hygienist within 60 days before or 60 days after the clinical licensing examination is given. Under no circumstances shall a temporary license awarded to a dental hygienist be in effect for any period longer than 7 months. This Section does not prohibit the awarding of temporary licenses to dentists who are seeking exemptions under R.S. 37:752(4).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1114 (June 1998), amended LR 27:1893 (November 2001).

Chapter 3. Dentists

§306. Requirements of Applicants for Licensure by Credentials

A. Before any applicant is awarded a license according to his/her credentials in lieu of an examination administered by the board, said applicant shall provide to the board satisfactory documentation evidencing:

1. - 15. ...

16. has furnished three current letters of recommendation from professional associates, i.e.

associations, boards, or prior employers listed on application for licensure on letterhead stationery from said organization;

A.17. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:739 (July 1992), amended LR 21:571 (June 1995), LR 22:23 (January 1996), LR 23:1528 (November 1997), LR 24:1114 (June 1998), LR 25:513 (March 1999), LR 27:1893 (November 2001).

Chapter 5. Dental Assistants

§502. Authorized Duties of Expanded Duty Dental Assistants

A. A person licensed to practice dentistry in the State of Louisiana may delegate to any expanded duty dental assistant any chairside dental act that said dentist deems reasonable, using sound professional judgment. Such act must be performed properly and safely on the patient and must be reversible in nature. Furthermore, the act must be under the direct supervision of the treating dentist. However, a dentist may not delegate to an expanded duty dental assistant:

- 1. - 15. ...
- 16. Deleted.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:205 (February 1993), amended LR 21:569 (June 1995), LR 22:1217 (December 1996), LR 24:1115 (June 1998), LR 27:1894 (November 2001).

§503. Guide to Curriculum Development for Expanded Duty Dental Assistants

A. ...

B. The following is a model outline for the expanded duty dental assistant course. The hours are to be allocated by the instructor in accordance with current law:

- 1. - 15. ...
- 16. clinical and written exams;
- 17. lecture on the placement of pit and fissure sealants;
- 18. lab on placement of pit and fissure sealants; performance evaluation lab shall be practicing on typodonts.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:205 (February 1993), amended LR 22:22 (January 1996), LR 24:1115 (June 1998), LR 27:1894 (November 2001).

Chapter 7. Dental Hygienists

§706. Requirements of Applicants for Licensure by Credentials

A. Before any applicant is awarded a license according to his/her credentials in lieu of an examination administered by the board, said applicant shall provide to the board satisfactory documentation evidencing that he/she:

- 1. - 14. ...

15. has furnished three current letters of recommendation from professional associates, i.e. associations, boards, or prior employers listed on application for licensure on letterhead stationery from said organization;

A.16. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:737 (July, 1992), amended LR 21:570 (June 1995), LR 22:23 (January 1996), LR 24:1117 (June 1998), LR 25:513 (March 1999), LR 27:1894 (November 2001).

§710. Administration of Local Anesthesia for Dental Purposes

A. - E. ...

F. Deleted.

G. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1292 (July 1998), amended LR 27:1894 (November 2001).

Chapter 13. Dental Laser and Air Abrasion Utilization §1305. Air Abrasion Units

A. Utilization of air abrasion units by licensed dental hygienists and dental auxiliaries is prohibited. However, this does not prevent the utilization of air polishing units by licensed dental hygienists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 19:334 (March 1993), amended LR 24:1117 (June 1998), LR 27:1894 (November 2001).

Chapter 16. Continuing Education Requirements

§1607. Exemptions

A. - B. ...

C. Due to the fact that dental and dental hygiene licenses are issued on a biennial basis, dentists and dental hygienists must accumulate one-half of the continuing education hours required under LAC 46:XXXIII.1611 and 1613 during the second year of the biennial period in which they received their initial licensure. For example, if a dentist receives his license immediately after graduation in June 1999, and he/she does not have to renew their license until the year 2001, that licensee need only accumulate 20 hours of continuing education, one-half of which must be clinical.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8), (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:661 (June 1994), amended LR 24:1117 (June 1998), LR 27:1894 (November 2001).

§1619. Violations

A. Violation Table

	Minimum	Maximum
1. First violation of continuing education	\$500.00	\$2,000.00
a. For completion of 3/4th or more of the requirement	\$500.00	
b. For completion of 1/2 to 3/4th of the requirement	\$1,000.00	
c. For completion of 1/4th to 1/2 of the requirement	\$1,500.00	
d. For completion of 0 to 1/4th of the requirement	\$2,000.00	
2. Second violation	\$1,000.00	\$4,000.00
3. All continuing education not completed on time shall be completed no later than August of the following calendar year and shall not count toward the continuing education requirements of the subsequent renewal period.		
4. A second violation of the continuing education requirements shall be reported to the National Practitioner		

- Data Bank, whereas the first violation will not.
5. After a second violation of continuing education requirements, the licensee shall be placed on a minimum of a two-year period of probation, depending upon the number of hours not completed.
 6. A third violation of continuing education requirements will result in the suspension of a dental or dental hygiene license for a period of not less than six months.
 7. Any subsequent violation of continuing education requirements will result in the revocation of a dental or dental hygiene license.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8)and(13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 27:1894 (November 2001).

C. Barry Ogden
Executive Director

0111#014

RULE

Department of Health and Hospitals Board of Examiners of Psychologists

Training and Credentials (LAC 46:LXIII.303)

In accordance with R.S. 49:950 et seq, the Board of Examiners of Psychologists has amended the following Rule related to acceptable doctoral programs in psychology.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXIII. Psychologists

Chapter 3. Training and Credentials

§303. Doctoral Programs in Psychology

A. A graduate of a doctoral program that is listed by the Association of State and Provincial Psychology Boards (ASPPB) and the National Register of Health Service Providers in Psychology's yearly joint publication of the Doctoral Psychology Programs Meeting Designation Criteria is recognized as holding a doctoral degree with a major in psychology from a university offering a full-time graduate course of study in psychology.

B. ...

C. A graduate of a doctoral program that is neither listed in Designate Doctoral Programs in Psychology nor accredited by the American Psychological Association must meet criteria 1 through 11 below.

1. Training in professional psychology is doctoral training offered in a regionally accredited institution of higher education.

2. The program, wherever it may be administratively housed, must be clearly identified and labeled as a psychology program. Such a program must specify in

pertinent institutional catalogs and brochures its intent to educate and train professional psychologists.

3. The psychology program must stand as a recognizable, coherent organizational entity within the institution.

4. There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines.

5. The program must be an integrated, organized sequence of study.

6. There must be an identifiable psychology faculty and a psychologist responsible for the program.

7. The program must have an identifiable body of students who are matriculated in that program for a degree.

8. The program must include supervised practicum, internship, field or laboratory training appropriate to the practice of psychology.

9. The program shall be an internal degree program (as opposed to an external degree program) unless it is either designated by the Association of State and Provincial Psychology Boards and the National Register or it is accredited by the American Psychological Association.

10. The doctoral program shall involve at least one continuous academic year of full-time residency on the campus of the institution at which the degree is granted.

11. The curriculum shall encompass a minimum of three academic years of full-time graduate study. The program of study shall typically include graduate coursework with a minimum of three semester hours (five quarter hours) in each of the following three areas: scientific and professional ethics and standards, research design and methodology, and statistics and methodology. In cases where the material from one of these areas was incorporated into other courses, the program director shall submit material to the Board indicating the educational equivalence of this requirement. Additionally, the core program shall require each student to demonstrate competence in each of the following substantive areas. This requirement typically will be met by including a minimum of three or more graduate semester hours (five or more graduate quarter hours) in each of the four substantive content areas. Graduates who cannot document competence in all substantive content areas (a-d below), may demonstrate competence by taking additional course work or examination, not to exceed one substantive content area.

a. Biological Bases Of Behavior. Physiological psychology, comparative psychology, neuropsychology, sensation and perception, psychopharmacology.

b. Cognitive-Affective Bases Of Behavior. Learning, thinking, motivation, emotion.

c. Social Bases Of Behavior. Social psychology, group processes, organizational and systems theory.

d. Individual Difference. Personality theory, human development, abnormal psychology. In addition, all professional doctoral programs in psychology will include course requirements in specialty areas.

D. Graduates of foreign programs will be evaluated according to the following.

1. Graduates of foreign programs must meet the "substantial equivalent" of criteria C.1-11 above. "Substantial equivalent" does not apply to graduates from colleges, universities, or professional schools in the United

States, Canada, or any jurisdiction under the Association of State and Provincial Psychology Boards. The Board may "assess" a foreign applicant to recover expenses incurred in reviewing unusual credentials.

2. Applicants for licensure whose applications are based on graduation from foreign universities shall provide the Board with such documents and evidence to establish that their formal education is equivalent to a doctoral degree in psychology granted by a United States university that is regionally accredited. The applicant shall provide the Board with the following:

- a. an original diploma or other certificate of graduation, which will be returned, and a photostatic copy of such a document, which shall be retained;
- b. a transcript or comparable document of all course work completed;
- c. a certified translation of all documents submitted in a language other than English;
- d. satisfactory evidence of supervised experience;
- e. evidence that the doctoral dissertation was primarily psychological in nature. In its discretion, the Board may require an applicant to file a copy of the dissertation itself; and
- f. a statement prepared by the applicant based on the documents referred to in this section, indicating the chronological sequence of studies and research. The format of this statement shall be as comparable as possible to a transcript issued by American universities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353 and 37:2356.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 13:181 (March 1987), amended LR 27:1895 (November 2001).

Robert Roy Allen, Ph.D.
Chair

0111#074

RULE

**Department of Health and Hospitals
Office of the Secretary
Bureau of Community Supports and Services**

**Home and Community Based Services Waiver Program
Mentally Retarded/Developmentally Disabled Waiver
Reimbursement Increase**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services has adopted the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services increases the reimbursement rates in the Mentally

Retarded/Developmentally Disabled Waiver for certain designated procedure codes for personal care attendant, respite and supervised independent living services as follows:

Z0002	PCA	\$10.30
Z0011	PCA - High Need	\$11.64
Z0003	Respite	\$10.30
Z0013	Respite - High Need	\$11.64
Z0004	Respite - Center	\$6.66
Z0014	Respite - Center - High Need	\$11.64
Z0053	SIL Day Companion	\$7.38
Z0055	SIL Night Companion	\$6.35

David W. Hood
Secretary

0111#090

RULE

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

**Emergency Medical Transportation Program
Emergency Ambulance Transportation Services
Reimbursement Increase**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement for the following designated procedure codes for emergency ambulance transportation services by 1.4 percent:

A0368	Emergency transport, no specialized ALS services
A0380	Emergency loaded miles, BLS
A0382	Routine disposable supplies, BLS
A0390	Non-Emergency loaded miles, ALS
A0394	Disposable supplies, ALS
A0398	Oxygen & oxygen supplies, ALS or BLS
A0422	Ambulance O2 life sustaining
A0427	ALS-Emergency
A0429	BLS-Emergency transport
A0433	ALS2
A0434	Specialty care transport

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

David W. Hood
Secretary

0111#087

RULE

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

Medicaid Eligibility
Elimination of Resource Test

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

Effective for applications taken on or after November 20, 2001, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing eliminates the consideration of resources in determining Medicaid eligibility for the Low Income Families with Children and the child related Medically Needy Programs.

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

David W. Hood
Secretary

0111#088

RULE

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

Medical Transportation Services
Non-Emergency Ambulance Services
Reimbursement Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement for certain designated procedure codes for non-emergency ambulance transportation services to the following rates:

A0366	Base rate, Specialized ALS services, 1st trip	\$152.75
A0426	ALS non-emergency transport	\$152.75
A0428	BLS non-emergency transport	\$152.75
Z5100	Transfer, loaded miles, BLS, 1st trip	\$152.75
Z5101	Transfer, loaded miles, ALS, 1st trip	\$152.75
Z9497	Base rate, ALS or BLS, 2nd trip	\$152.75

Implementation of the provisions of this rule shall be contingent upon the approval of the U.S. Department of

Health and Human Services, Centers for Medicare and Medicaid Services.

David W. Hood
Secretary

0111#091

RULE

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

Mental Health Rehabilitation Services
Reimbursement Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following Rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement rates in the Mental Health Rehabilitation Program for designated procedure codes for high need, medium need and low need services for adults and children to the following rates:

Procedure Code	Procedure Name	New Rate
X0132	Adult C Low Need	\$350
X0133	Adult C Medium Need	\$750
X0135	Child C Low Need	\$400
X0136	Child C Medium Need	\$840
X0137	Child C High Need	\$1415

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

David W. Hood
Secretary

0111#089

RULE

**Department of Natural Resources
Office of Conservation**

Amendment To Statewide Order No. 29-B
(LAC 43:XIX, Subpart 1, Chapter 5)

The Commissioner of Conservation hereby amends Statewide Order No. 29-B, LAC 43:XIX, Subpart 1, Chapter 5 (501 et seq.) in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq., and pursuant to the power delegated under the laws of the State of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950, Sections 30:4C(1), (2), (3), (6), (8), (9), (10), (14), (16), and 4I. Changes have been made in a number of sections. The following table shows the cross-

over of the titles and descriptions from the former citations to the new citations.

Former Citation	New Citation—Title/Description
501.	501. Definitions
N/A	503. General Requirements for Generators of E&P Waste
N/A	503.A E&P Waste Characterization
503.B	503.B & C Unauthorized Handling of E&P Waste / Subsurface Disposal of Saltwater Required
503.A.1	503.D Handling and Disposal of E&P Waste
N/A	503.E Disposal at DEQ Regulated Facilities Allowed
N/A	503.F Requirements for Gas Plant Waste Solids
N/A	503.G Prohibition of Waste Mixing
503.A.2	503.H.1 Spill Reporting Requirements
503.A.3	503.H.2 Reporting of Unauthorized Disposal
503.A.4	503.H.3 Disposition of E&P Waste
503.B	505.A Approval of Commercial facility and Transfer Station Required
N/A	505.B Requirements for Gas Plant Waste Solids
503.C	505.D Approval of Transfer Station Required
N/A	505.E Electronic Submission of Applications, Data and Reports
503.D	507. Location Criteria
503.E	509. Design Criteria
505.C.10 & 509.J	511. Financial Responsibility
505.C.11	513. Provisions for Adequate Closure
N/A	515. E&P Waste Management and Operations Plan
N/A	517. Permit Compliance Review
505.A, B, C, & D	519. Permit Application Requirements for Commercial Facilities
505.E Permit Application Requirements for Pits	(Repealed)
505.G	521. Permit Application Requirements for Transfer Stations
505.F	523. Permit Application Requirements for Land Treatment Systems
N/A	525. Permit Application Requirements for Other Treatment and Disposal Options
507.A, B, C, D, F, G, & H	527. Permitting Procedures
507.E	529. Public Notice Requirements
N/A	531. Permitting Conditions
509. A, B, C, G, K, & L	533. General Operational Requirements for Commercial Facilities and Transfer Stations
509.D	535. Notification Requirements
509.E	537. Hours of Receiving
509.F	539. Monitoring Requirements for Commercial Class II Injection Wells *
509.H	541. Sampling and Testing Requirements of Commercial Facilities with Monitor Wells
509.I	543. Receipt, Sampling and Testing of Exploration & Production Waste
511.	545. Manifest System
N/A	547. Commercial E& P Waste Treatment and Disposal Options
513.	549. Land Treatment Facility Requirements
N/A	551. Phase Separation Requirements (Reserved)
N/A	553. Thermal Desorption Requirements (Reserved)

N/A	555. Cavern Disposal Requirements (Reserved)
N/A	557. Incineration Requirements (Reserved)
N/A	559. Solidification/Stabilization Requirements (Reserved)
N/A	561. Reserved
N/A	563. Reserved
515.	565. Resource Conservation and Recovery of E&P Waste
517.	567. Closure Requirements
519.	569. Exceptions (Repealed)
521. Effect on Existing Special Orders	(Repealed)
523. Applicability	(Repealed)

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation

Subpart 1. Statewide Order No. 29-B

Chapter 5. Off-site Storage, Treatment and/or Disposal of Exploration and Production Waste Generated From Drilling and Production of Oil and Gas Wells

NOTE: Onsite disposal requirements are listed in LAC 43:XIX, Chapter 3.

§501. Definitions

Application Phase Can identifiable period of time during which E&P Waste receipts are applied to a land treatment cell.

Cell Can earthen area constructed with an underdrain system within a land treatment facility used for the placement, land treatment and degradation of E&P Waste at a commercial facility. (A cell as defined in this section is not considered a pit)

Closed System Ca system in which E&P Waste is stored and treated in an enclosed sump, tank, barge, or other vessel/container or equipment prior to treatment and/or disposal. A closed system does not include an open top sump or earthen pit.

Commercial Facility Ca legally permitted E&P Waste storage, treatment and/or disposal facility which receives, treats, reclaims, stores, and/or disposes of E&P Waste for a fee or other consideration. For purposes of this definition, Department of Environmental Quality (DEQ) permitted facilities, as defined by LAC 33:V and VII, which are authorized to receive E&P Waste, are not covered by this definition. However, such facilities must comply with the reporting requirements of §545.K herein if E&P Waste is accepted.

Commissioner Cthe Commissioner of Conservation of the State of Louisiana.

Community Saltwater Disposal Well or System Ca saltwater disposal well within an oil or gas field which is operated by one operator of record for disposal of E&P Waste fluids and used by other operators of record in the same field or adjacent fields for noncommercial disposal of their produced water. Such operators share in the costs of operating the well/system. For purposes of this definition, "adjacent fields" means oil or gas fields or portions thereof which are located within or partially encroach upon the same township as a community saltwater disposal well or one or more townships all of which are directly contiguous to the township in which the community saltwater disposal well is located.

ContainerCa sump, storage tank, process vessel, truck, barge, or other receptacle used to store or transport E&P Waste.

Drilling WasteCoil-base and water-base drilling mud or other drilling fluids and cuttings generated during the drilling of wells. These wastes are a subset of E&P Waste.

Exploration and Production Waste (E&P Waste)Cdrilling wastes, salt water, and other wastes associated with the exploration, development, or production of crude oil or natural gas wells and which is not regulated by the provisions of, and, therefore, exempt from the Louisiana Hazardous Waste Regulations and the Federal Resource Conservation and Recovery Act, as amended. E&P Wastes include, but are not limited to the following:

Waste Type	E&P Waste Description
01	Salt water (produced brine or produced water), except for salt water whose intended and actual use is in drilling, workover or completion fluids or in enhanced mineral recovery operations, process fluids generated by approved salvage oil operators who only receive oil (BS&W) from oil and gas leases, and natural gas plant processing waste fluid which is or may be commingled with produced formation water.
02	Oil-base drilling wastes (mud, fluids and cuttings)
03	Water-base drilling wastes (mud, fluids and cuttings)
04	Completion, workover and stimulation fluids
05	Production pit sludges
06	Storage tank sludge from production operations, onsite and commercial saltwater disposal facilities, salvage oil facilities (that only receive waste oil [B, S, & W] from oil and gas leases), and sludges generated by service company and commercial facility or transfer station wash water systems
07	Produced oily sands and solids
08	Produced formation fresh water
09	Rainwater from firewalls, ring levees and pits at drilling and production facilities
10	Washout water and residual solids generated from the cleaning of containers that transport E&P Waste and are not contaminated by hazardous waste or material; washout water and solids (E&P Waste Type 10) is or may be generated at a commercial facility or transfer station by the cleaning of a container holding a residual amount (no more than 1 barrel) of E&P Waste
11	Washout pit water and residual solids from oilfield related carriers and service companies that are not permitted to haul hazardous waste or material
12	Nonhazardous natural gas plant processing waste solids.
13	(Reserved)
14	Pipeline test water which does not meet discharge limitations established by the appropriate state agency, or pipeline pigging waste, i.e., waste fluids/solids generated from the cleaning of a pipeline
15	E&P Wastes that are transported from permitted commercial facilities and transfer stations to permitted commercial treatment and disposal facilities, except those E&P Wastes defined as Waste Types 01 and 06
16	Crude oil spill clean-up waste
50	Salvageable hydrocarbons bound for permitted salvage oil operators
99	Other E&P Waste not described above (shipment to a commercial facility or transfer station must be pre-approved prior to transport)

E&P WasteCexploration and production waste.

GeneratorCan any person or entity who generates or causes to be generated any E&P Waste.

Groundwater AquiferCa as defined in §301.

Inactive CellCa land treatment cell which is not used for E&P Waste receipts or has been taken out of service by a land treatment facility. Such cell may be considered inactive only if it is a new cell which has not yet received E&P Waste or an existing cell which is in compliance with the applicable testing criteria of this Chapter.

Land TreatmentCa dynamic process involving the controlled application of E&P Waste onto or into the aerobic surface soil horizon in open cells by a commercial land treatment facility, accompanied by continued monitoring and management, to alter the physical, chemical, and biological state of the E&P Waste. Site, soil, climate, and biological activity interact as a system to degrade and immobilize E&P Waste constituents thereby rendering the area suitable for the support of vegetative growth and providing for beneficial future land use or to meet the reuse criteria of §565.

MPCC maximum permissible concentration

OffsiteCfor purposes of this Section, outside the confines of a drilling unit for a specific well or group of wells, or in the absence of such a unit, outside the boundaries of a lease or contiguous property owned by the lessor upon which a well is drilled.

Oil-Based Drilling MudsCan any oil-based drilling fluid composed of a water in oil (hydrocarbon or synthetic) emulsion, organophillic clays, drilled solids and additives for down-hole rheology and stability such as fluid loss control materials, thinners, weighting agents, etc.

PitCan earthen surface impoundment constructed to retain E&P Waste, often referred to as a pond or lagoon. The term does not include lined sumps less than 660 gallons.

Residual—the de-minimis quantity of E&P Waste (solids or liquids) remaining in a container after offloading, using the practices commonly employed to remove materials from that type of container (e.g., pouring, pumping, and aspirating) and amounting to no more than one inch of residue remaining on the bottom, or no more than 3 percent by weight of the total capacity of the container if the container is less than or equal to 110 gallons in size, or no more than 0.3 percent by weight of the total capacity of the container if the container is greater than 110 gallons in size.

Reusable MaterialCa material that would otherwise be classified as E&P Waste, but which is capable of resource conservation and recovery and has been processed in whole or in part for reuse. To meet this definition, the material must have been treated physically, chemically, or biologically or otherwise processed so that the material is significantly changed (i.e., the new material is physically, chemically, or biologically distinct from the original material), and meets the criteria of §565.F.

Salt WaterCwater with a chloride content greater than 500 ppm generated from a producing oil or gas well.

SumpCa container constructed of steel, fiberglass, sealed concrete, or some other impermeable material utilized for temporary storage of E&P Waste, including, but not limited to wash water and solids (sludge) generated by the removal/cleaning of residual amounts of E&P Waste from storage containers.

Transfer StationCan E&P Waste receiving and storage facility, located offsite, but operated at an approved location in conjunction with a permitted commercial facility, which is used for temporary storage of manifested E&P Waste for a period of 30 days or less.

TransporterCa legally permitted carrier of E&P Waste contained in trucks, barges, boats, or other transportation vessels.

TreatmentCa applied to Type A Facilities (defined herein), excluding Transfer Stations, treatment shall be defined as any method, technique, or process capable of changing the physical and/or chemical characterization or composition of E&P Waste so as to reclaim salvageable hydrocarbons, process reusable material, reduce waste volume (volume reduction), neutralize waste, reduce §549 criteria concentration(s) or otherwise render the waste more suitable for handling, storage, transportation, and/or disposal.

Treatment PhaseCthe period of time during which E&P Waste in a land treatment cell is physically manipulated and/or chemically altered (through the addition of chemical amendments, etc.) to bring the cell into compliance with the testing criteria or reuse criteria of LAC43:XIX.549 and 565.

Treatment ZoneCthe soil profile in a land treatment cell that is located wholly above the saturated zone and within which degradation, transformation, or immobilization of E&P Waste constituents occurs. The treatment zone is subdivided as follows.

1. **Waste Treatment Zone (WTZ)**Cthe active E&P Waste treatment area consisting solely of the E&P Waste solids applied to a land treatment cell during the application phase, exists entirely above grade (original cell bottom), and whose actual depth depends on the solids content of the E&P Waste applied. For monitoring purposes the WTZ represents the 0-24" depth increment.

2. **Upper Treatment Zone (UTZ)**Cthe E&P Waste/native soil (original cell bottom) interface in a land treatment cell where some disturbance occurs as a result of E&P Waste treatment/manipulation. For monitoring purposes, the UTZ represents the 24-36" depth increment.

3. **Lower Treatment Zone (LTZ)**Cthe zone beneath the UTZ in a land treatment cell from approximately 36-54" (or to the top of the subsurface drainage system) which remains undisturbed throughout the life of a land treatment cell.

Type A FacilityCa commercial E&P Waste disposal facility within the state that utilizes technologies appropriate for the receipt, storage, treatment, or disposal of E&P Waste solids and fluids (liquids) for a fee or other consideration.

Type B FacilityCa commercial E&P Waste disposal facility within the state that utilizes underground injection technology for the receipt, storage, treatment, and disposal of only saltwater or other E&P Waste fluids (liquids) for a fee or other consideration.

Waste Management and Operations PlanCa plan as identified and required in §515.

Water-Based Drilling MudsCany water-based fluid composed of fresh water, naturally occurring clays, drilled solids and additives for fluid loss control, viscosity, thinning, pH control, weight control, etc., for down-hole rheology and stability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2811 (December 2000), amended LR 27:1898 (November 2001).

§503. General Requirements for Generators of E&P Waste

A. E&P Waste Characterization

1. Generators of E&P Waste must be familiar with the components of the E&P Waste they generate.

2. If not previously characterized, E&P Waste characterization procedures should be undertaken to determine the constituents of E&P Waste prior to disposal.

3. At a minimum, E&P Waste should be tested for the following constituents: pH, TPH, EC, TCLP benzene, SAR, ESP and the following metals: As, Ba, Cd, Cr, Cu, Pb, Hg, Mo, Ni, Se, Ag and Zn.

4. E&P Waste should be re-characterized if the waste generation process changes significantly (e.g., process change, chemical additives, etc.)

5. E&P Waste which is to be taken offsite or has been taken offsite for storage, treatment, or disposal may be required to be sampled and analyzed in accordance with EPA protocols or Office of Conservation (OC) approved procedures.

B. The unpermitted or unauthorized onsite or offsite storage, treatment, disposal or discharge of E&P Waste is prohibited and is a violation of these rules.

C. Subsurface disposal of salt water is required and regulated by LAC 43:XIX.401 et seq. The requirements of this Chapter do not apply to either lease saltwater disposal wells or to community saltwater disposal wells.

D. The generator is responsible for the proper handling and transportation of E&P Waste taken offsite for storage, treatment, or disposal to assure its proper delivery to an approved commercial facility or transfer station or other approved storage, treatment or disposal facility. Failure to properly transport and dispose of E&P Waste shall subject the generator to penalties provided for in R.S. 30:18. Each shipment must be documented as required by §545.

E. At the option of the generator, E&P Waste may be treated and/or disposed at Department of Natural Resources (DNR) permitted commercial facilities and transfer stations under the provisions of this Chapter or Department of Environmental Quality (DEQ) permitted facilities as defined by LAC 33:V and VII which are permitted to receive E&P Waste which are subject to relevant DEQ regulations. If received, stored, treated and/or disposed at a DEQ regulated facility, E&P Waste would become the sole regulatory responsibility of DEQ upon receipt.

F. Requirements for E&P Waste Type 06 (Storage Tank Sludge) and E&P Waste Type 12 (Gas Plant Waste Solids)

1. Generators of Waste Type 06 are hereby made aware that commercial land treatment facilities must manage such waste in compliance with the location criteria of §507.A.3 and the maximum permissible concentration (MPC) requirements of §549.C.7.c and d for total benzene.

2. Waste Types 12 is not required to be tested for benzene if disposed at commercial facilities that utilize treatment options other than land treatment (see §547).

3. Prior to shipment and disposal at commercial land treatment facilities, nonhazardous natural gas plant processing waste solids (gas plant waste - Waste Type 12) must be analyzed for the chemical compound benzene (C₆H₆). Testing must be performed by a DEQ certified

laboratory in accordance with procedures presented in the *Laboratory Manual for the Analysis of E&P Waste* (Department of Natural Resources, August 9, 1988, or latest revision).

4. Subject to the requirements of §507.A.3 and §549.C.7.a, Waste Type 12 may be disposed at any commercial land treatment facility if test data indicates the waste is less than or equal to the MPC of 3198 mg/kg total benzene.

5. If test data indicates the concentration of total benzene in Waste Type 12 is above 3198 mg/kg (MPC criteria), the following disposal options are available:

a. dispose of the waste at a permitted commercial facility that utilizes an E&P Waste treatment or disposal option other than land treatment;

b. treat the waste (on-site) to a concentration of total benzene equal to or below 3198 mg/kg prior to off-site shipment to any commercial land treatment facility;

c. dispose of the E&P Waste at a commercial land treatment facility that has been approved for the receipt, storage, treatment and disposal of E&P Waste that exceeds a total benzene concentration of 3198 mg/kg; or

d. dispose of the E&P Waste at Department of Environmental Quality (DEQ) permitted facilities as defined by LAC 33:V and VII, pursuant to the provisions of §503.E above.

6. If a generator chooses to dispose of Waste Type 12 at a commercial land treatment facility, the generator must attach a copy of the laboratory report to the manifest which accompanies each shipment of the E&P Waste.

7. Commercial land treatment facilities may not receive, store, treat or dispose of E&P Waste Type 12, gas plant waste solids, unless the requirements of §505.B have been met.

G Prohibition of Waste Mixing

1. A mixture of E&P Wastes containing amounts greater than residual quantities of Waste Type 06 (and associated wash water) shall be designated as Waste Type 06, and if land treated, must meet the distance requirements for Waste Type 06 in §507.A.3 below.

2. Mixing Waste Type 12 with any other E&P Waste type prior to sampling and shipment to a commercial land treatment facility or transfer station is strictly prohibited.

3. Any inadvertent or unavoidable mixture of E&P Wastes containing any quantity of Waste Type 12 (and associated wash water) must meet the MPC testing criteria of §549.C.7.a for total benzene and must meet the distance requirements for Waste Type 12 in §507.A.3.

H. General Reporting Requirements

1. Any spills which occur during the offsite transportation of E&P Waste shall be reported by phone to the Office of Conservation, within 24 hours of the spill and the appropriate state and federal agencies.

2. Operators (generators) are required to report the discovery of any unauthorized disposal of E&P Waste by transporters, or any other oilfield contracting company.

3. Within six months of the completion of the drilling or workover of any well permitted by the Office of Conservation, the operator (generator) shall comply with the reporting requirements of LAC 43:XIX.303 or successor regulations regarding the disposition of any E&P Wastes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2811 (December 2000), amended LR 27:1900 (November 2001).

§505. General Requirements for Commercial Facilities and Transfer Stations

A The offsite storage, treatment, and/or disposal of E&P Waste by a commercial facility or transfer station must be approved by the commissioner as provided in this Chapter.

B. Commercial land treatment facilities may not receive, store, treat or dispose of nonhazardous natural gas plant processing waste solids (Waste Type 12) that exceed the MPC criteria of §549.C.7.a for total benzene (3198 mg/kg) unless the company has demonstrated to the commissioner that Waste Type 12 can be pretreated to below the applicable MPC prior to land treatment. Such demonstration shall be considered a major modification of any existing permit and will require compliance with the permitting procedures of §§519, 527, and 529, including the submission of an application and public participation. The E&P waste management and operations plan required in §515 shall clearly indicate how the E&P Waste storage and treatment system will minimize the release of benzene (e.g., enclosed tanks, enclosed treatment equipment, vapor recovery systems, etc.). Such demonstration shall also include proof of solicitation from DEQ regarding applicable required air permitting for the existing and amended land treatment system.

C. Land treatment facilities that accept Waste Type 06 must meet the location criteria of §507A.3 and the E&P Waste pretreatment and treatment criteria of §549.C.7.c and d.

D. Approval of Transfer Station Required: The construction and operation of a transfer station must be approved by the commissioner upon submission of a permit application according to the requirements of §521.

E. The Commissioner will consider and encourages the electronic submission of applications, data or reports required under this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2811 (December 2000), amended LR 27:1901 (November 2001).

§507. Location Criteria

A. Commercial facilities and transfer stations may not be located in any area:

1. within one-quarter mile of a public water supply well, within 1,000 feet of a private water supply well or within a DEQ designated source water protection or wellhead protection area for facilities permitted after January 1, 2002;

2. where Type A and B facilities and transfer stations, Class II disposal wells, storage containers and E&P Waste treatment systems and related equipment are located within 500 feet of a residential, commercial, or public building, church, school or hospital;

3. where the perimeter of any Type A land treatment cell is located within restricted distances from a residential or public building, church, school, or hospital for treatment of Waste Types 06 and 12 as listed below:

Special Conditions	Restricted Distance
Land treatment of Waste Type 06:	
= 113 mg/kg total benzene (MPC)	1,000'
Not tested or > 113 mg/kg total benzene (MPC)	2,000'
Land treatment of Waste Type 12	
= 3198 mg/kg total benzene (MPC)	2,000'
> 3198 mg/kg total benzene (MPC)	(banned)
Land treatment of all other E&P Waste types	1,000'

4. where the subsurface geology of any proposed injection zone (reservoir) does not exhibit the following characteristics:

a. adequate thickness and areal extent of the proposed injection zone; and

b. adequate clay confining beds separating the top of the proposed injection zone and the base of the lowermost underground source of drinking water;

5. where permanent E&P Waste storage containers, land treatment cells, and storm water retention (sediment) ponds are located in a "V" or "A" zone as determined by flood hazard boundary or rate maps and other information published by the Federal Emergency Management Agency (FEMA) unless adequate levees are constructed to at least one foot above the 100-year flood elevation as certified by a professional engineer or surveyor and able to withstand the velocity of the 100-year flood. Existing facilities located in a "V" or "A" zone will be required to build facility levees above the 100-year flood elevation as certified by a professional engineer or land surveyor. As conditions change and new data is made available by FEMA, owners of existing commercial facilities and transfer stations will be required to update their facilities accordingly;

6. where such area, or any portion thereof, has been designated as wetlands by the U.S. Corps of Engineers during, or prior to, initial facility application review, unless the applicable wetland and Coastal Management Zone permits are obtained;

7. where other surface or subsurface conditions exist which in the determination of the Commissioner of Conservation would cause the location to pose a threat of substantial, adverse effects on public health or safety or the environment at or near the location.

B. If the owner of the residence or commercial building or the administrative body responsible for the public building, hospital or church waives the distance requirements of §507.A.2 above, such waiver must be in writing, shall contain language acceptable to the commissioner, and shall be included in the permit application.

C. Transfer stations are exempt from the location requirement of 500 feet from a commercial building.

D. The above location criteria shall apply to commercial facilities in existence on November 20, 2001 and shall be applied to a proposed new facility or modification of an existing facility as of the date the notice of intent is published or the date the application is filed with the Office of Conservation, whichever is earlier.

E. Any encroachment upon applicable location criteria after the date the notice of intent is published or the application is filed, whichever is earlier, shall not be considered a violation of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2811 (December 2000), amended LR 27:1901 (November 2001).

§509. Design Criteria

A. Commercial facilities, transfer stations and commercial Class II saltwater disposal wells shall be designed and constructed in such a manner as to prevent the movement of E&P Waste into soil, groundwater aquifers or underground sources of drinking water (USDW's) and to prevent the discharge of E&P Waste materials or E&P Waste byproducts into man-made or natural drainage or directly into state waters unless a discharge permit has been received from the appropriate state or federal agency.

B. Commercial facilities and transfer stations shall be designed and constructed in a manner which is protective of public health, safety and welfare or the environment, surface waters, groundwater aquifers and underground sources of drinking water in accordance with, but not limited to, the following requirements:

1. all applicable construction and operational standards of this Chapter, as well as Chapter 2, Chapter 3, and Chapter 4 of LAC 43:XIX, Subpart 1, Statewide Order No. 29-B;

2. facility design shall provide for the segregation, separation, and containment of free oil, where appropriate;

3. retaining walls (levees) shall be built around all above-ground storage tanks to a level that will provide sufficient capacity to retain the contents of each tank and prevent the release of stored E&P Wastes due to tank leakage, or some other cause;

4. spill containment systems shall be built around unloading areas to prevent the escape of any E&P Wastes spilled during off-loading; and

5. limited access to E&P Waste transported on land shall be provided by a lockable gate system. The need for a 6-foot chain-link fence around an entire facility or any portion of a facility will be determined after a site investigation by the commissioner or his designated representative. Gates shall be locked except during the hours a facility is permitted to receive E&P Waste.

C. Land treatment cells shall not exceed 5 acres in size.

D. Except for storm water retention (sediment) ponds at land treatment facilities (§549.C.12) and sumps as defined in §501, earthen or artificially lined pits shall not be constructed or used for storage of E&P Waste at any commercial facility or transfer station.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2811 (December 2000), amended LR 27:1902 (November 2001).

§511. Financial Responsibility

A. Each permitted commercial facility and transfer station must maintain evidence of financial responsibility for any liability for damages which may be caused to any party by the escape or discharge of any material or E&P Waste offsite from the commercial facility or transfer station. Such evidence must be provided by the applicant prior to issuance of a permit.

B. Financial responsibility may be evidenced by filing a letter of credit, bond, certificates of deposit issued by and drawn on Louisiana banks, or any other evidence of equivalent financial responsibility acceptable to the commissioner.

C. In no event shall the amount and extent of such financial responsibility be less than the face amounts per occurrence and/or aggregate occurrences as set by the commissioner below:

1. \$500,000 minimum financial responsibility for any commercial facility (excluding transfer stations) which stores, treats or disposes of E&P Waste solids (i.e. oil- or water-base drilling fluids, etc.); or

2. \$250,000 minimum financial responsibility for a commercial salt water disposal facility which utilizes underground injection and a closed storage system; and

3. \$100,000 minimum financial responsibility for each transfer station operated in conjunction with a legally permitted commercial facility subject to the guidelines of this Section.

NOTE: The commissioner retains the right to increase the face amounts set forth above as needed in order to prevent waste and to protect public health, safety, and welfare or the environment.

D. If insurance coverage is proposed and accepted to meet the financial responsibility requirement, it must be provided by an insurer that is licensed to transact the business of insurance, or eligible to provide insurance as an excess of surplus lines insurer, in one or more states, and is authorized to conduct insurance business in the state of Louisiana.

1. For a commercial facility which operates land treatment cells, such insurance must provide sudden and accidental pollution liability coverage as well as environmental impairment liability coverage.

2. For any commercial facility or transfer station which does not operate land treatment cells, such insurance must provide sudden and accidental pollution liability coverage.

E. Proof of insurance must be provided by a certificate of liability insurance which must be worded as follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted:

COMMERCIAL FACILITY

CERTIFICATE OF LIABILITY INSURANCE

1. [Name of Insurer], (the "Insurer") of [address of Insurer] hereby certifies that it has issued liability insurance covering bodily injury and property damage to [name of insured], (the "insured"), of [address of insured] in connection with the insured's obligation to demonstrate financial responsibility under LAC 43:XIX.511. The coverage applies at [site code or address for each facility] for [insert "sudden and accidental pollution liability" or "environmental impairment"]. The limits of liability are [insert the dollar amount of "each occurrence" and "annual aggregate" limits of the Insurer's liability], exclusive of legal defense costs. The coverage is provided under policy number _____, issued on [date]. The effective date of said policy is [date].

2. The insurer further certifies the following with respect to the insurance described in §511.E.1 above.

a. Bankruptcy or insolvency of the insured shall not relieve the insurer of its obligation under the policy.

b. The insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the insured for any such payment made by the insurer. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated.

c. Whenever requested by the Commissioner of Conservation, the insurer agrees to furnish to the Commissioner a signed duplicate original of the policy and all endorsements.

d. Cancellation of the insurance, whether by the insurer, the insured, a parent corporation providing insurance coverage for its subsidiary, or by a firm having an insurable interest in and obtaining liability insurance on behalf of the owner or operator of the commercial facility or transfer station, will be effective only upon written notice and only after the expiration of 60 days after a copy of such written notice is received by the Commissioner of Conservation.

e. Any other termination of the insurance will be effective only upon written notice and only after the expiration of 30 days after a copy of such written notice is received by the Commissioner of Conservation.

I hereby certify that the wording of this instrument is identical to the wording specified in LAC 43:XIX.511.E as such regulation was constituted on the date this certificate was issued, as indicated below, and that the insurer is licensed to transact the business of insurance, or eligible to provide insurance as an excess of surplus lines insurer, in one or more states, and is authorized to conduct insurance business in the state of Louisiana.

[Signature of authorized representative of Insurer]

[Type name]

[Title], Authorized Representative of [Name of Insurer]

[Address of Representative]

DATE OF ISSUANCE: _____.

F. A commercial facility or transfer station application shall contain documentation of the method by which proof of financial responsibility will be provided by the applicant. Where applicable, the application must include copies of a draft letter of credit, bond, or any other evidence of financial responsibility acceptable to the commissioner.

G. Documentation of financial responsibility must be submitted to and approved by the commissioner prior to beginning construction.

H. Financial responsibility must be renewable on April 1 of each year. Documentation that the required financial responsibility has been renewed must be received by March 15 of each year or procedures to initiate permit suspension will be initiated. If suspended, the permit shall remain suspended until insurance coverage has been confirmed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2811 (December 2000), amended LR 27:1903 (November 2001).

§513. Provisions for Adequate Closure

A. All offsite commercial facilities and transfer stations under the jurisdiction of the Office of Conservation shall be closed in a manner approved by the commissioner to insure protection of the public, the environment, groundwater aquifers and underground sources of drinking water. A plan for closure must be developed in accordance with the requirements of the commissioner.

B. Each permitted commercial facility and transfer station shall maintain a bond or irrevocable letter of credit on file with the Office of Conservation to provide for adequate closure of the facility. The bond or letter of credit must be renewable on October 1 of each year.

C. Closure bond or letter of credit amounts will be reviewed each year prior to the renewal date according to the following process.

1. A detailed cost estimate for adequate closure of each permitted commercial facility or transfer station shall be prepared by an independent professional consultant and submitted to the commissioner on or before February 1 of each year.

2. The closure plan and cost estimate must include provisions or closure acceptable to the commissioner and must be designed to reflect the costs to the Office of Conservation to complete the approved closure of the facility.

3. Upon review of the cost estimate, the commissioner may increase, decrease or allow the amount of the bond or letter of credit to remain the same.

4. Documentation that the required closure bond or letter of credit has been renewed must be received by September 15 of each year or the commissioner shall initiate procedures to take possession of the funds guaranteed by the bond or letter of credit and suspend or revoke the permit under which the facility is operated. Any permit suspension shall remain in effect until renewal is documented.

D. The commissioner may consider the submission of other financial documents on a case-by-case basis to comply with the requirements of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2811 (December 2000), amended LR 27:1903 (November 2001).

§515. E&P Waste Management and Operations Plan

A. All existing commercial facilities and transfer stations must maintain an E&P Waste management and operations plan (WMOP, Plan) on file with the Office of Conservation.

B. The Plan must be updated as necessary or at the request of the commissioner to take into consideration any changes or modifications made at the facility.

C. The Plan must describe the methods by which activities at the facility are monitored to insure compliance with the applicable requirements of this Chapter and Chapters 1, 3 and 4 of LAC 43:XIX, Subpart 1, Statewide Order No. 29-B.

D. For existing commercial facilities and transfer stations, a WMOP shall be submitted to the Office of Conservation within 180 days of promulgation of this requirement.

E. For new commercial facilities and transfer stations, a WMOP must be submitted with the application.

F. At a minimum, a WMOP shall contain the following information:

1. volume, rate of application/treatment and types of E&P Wastes to be received, stored, treated and/or disposed at each commercial facility or transfer station; a complete explanation of procedures for witnessing the receipt, sampling, and testing of E&P Wastes (E&P Waste acceptance policy) to assure that only permitted E&P Wastes are accepted, in compliance with the requirements of §545;

and a detailed explanation of the storage, treatment and disposal system and related equipment to be utilized;

2. a contingency plan for reporting, responding to and cleaning up spills, leaks, and releases of E&P Wastes or treatment byproducts, including provisions for notifying applicable local, state and federal emergency response authorities and for taking operator-initiated emergency response actions;

3. a plan for routine inspection and maintenance of monitoring equipment (e.g., gauges, monitor wells, etc.) to ensure and demonstrate compliance with permit and regulatory requirements;

4. commercial land treatment facilities must provide the following information:

a. a groundwater and facility monitoring plan to comply with the applicable requirements of this Chapter;

b. specific plans for preventing or minimizing air emissions from sources such as the volatilization of organic materials (e.g., benzene) and/or hydrogen sulfide in E&P Waste, particulate matter (dust) carried by the wind, periodic removal and subsequent handling of free oil, and chemical reactions (e.g., production of hydrogen sulfide from sulfur-bearing E&P Wastes);

c. the plan shall address short-term and long-term distribution of Waste Type 06 on land treatment cells to prevent excessive 'same cell' loading of this E&P Waste Type;

d. a reuse stockpile management plan (see §565.G);

e. plans to comply with the location criteria of §507.A.3 for land treatment of E&P Waste;

5. a security plan for the facility;

6. a community relations or public information plan; and

7. an environmental, health, and safety plan which describes site sampling methods and procedures to determine the potential risks to public health, safety and welfare or the environment posed by the site. Such plan shall indicate how the facility will comply with the applicable environmental monitoring requirements of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:1904 (November 2001).

§517. Permit Compliance Review

A. Commercial facility and transfer station permits shall be reviewed at least once every five years to determine compliance with applicable permit requirements and conditions. Commencement of the permit review process for each commercial facility and transfer station shall proceed as authorized by the commissioner of Conservation.

B. At the commissioner's discretion, any commercial facility or transfer station operator may be required to sample and test facility property and/or equipment for NORM and/or parameters established for "soils" in §549.E.2 to assure compliance with closure requirements of §567.A. The commercial facility or transfer station operator must submit a report detailing the results of all onsite sampling and testing in a manner acceptable to the Commissioner of Conservation. Sampling and testing must be performed by an independent professional consultant and third-party laboratory. Testing must be performed by a DEQ certified laboratory in accordance with procedures presented in the

Laboratory Manual for the Analysis of E&P Waste (Department of Natural Resources, August 9, 1998, or latest revision).

C. Upon review of the data and as deemed appropriate, administrative steps will be taken to revise or revoke permits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2811 (December 2000), LR 27:1904 (November 2001).

§519. Permit Application Requirements for Commercial Facilities

A. Application and Permit Required.

1. Every person who intends to construct and operate a new offsite commercial facility or transfer station, or make a major modification to an existing commercial facility or transfer station, shall file a permit application with the Office of Conservation.

2. A major modification to an existing commercial facility or transfer station permit is one in which the facility requests approval to make significant technological changes to an existing E&P Waste treatment and/or disposal system, including the construction and operation of additional equipment or systems to treat and/or dispose of E&P Waste streams other than those previously accepted by the facility. A major modification request may include a request to expand an existing commercial facility or transfer station onto adjacent property not previously permitted for E&P Waste disposal activities.

3. Examples of minor permit modifications include, but are not limited to, requests to add additional Class II disposal wells to an existing facility, to add treatment equipment to supplement existing equipment, or to add land treatment cells within previously permitted facility boundaries. Minor permit modifications shall be approved administratively.

B. Notice of Intent

1. At least 30 days prior to filing such application, the applicant shall publish a notice of intent to apply. Such notice shall contain sufficient information to identify the following:

- a. name and address of the applicant;
- b. the location of the proposed facility;
- c. the nature and content of the proposed E&P

Waste stream(s);

d. the method(s) of storage, treatment, and/or disposal to be used.

2. The notice of intent shall be published in the official state journal, the official journal of the parish in which the proposed facility will be located, and in the journal of general circulation in the area where the proposed facility is to be located, if different from the official parish journal.

3. Such notice shall be in bold-face type and not less than one-quarter page in size and shall be published on three separate days in each journal.

C. General Information. Except for the filing and hearing fees, the following general information must be provided in duplicate in each application for approval to operate a commercial facility or transfer station:

1. for a commercial Class II injection/disposal well application, the appropriate nonrefundable application fee(s),

in the amount(s) required by Statewide Order No. 29-R-00/01, LAC 43:XIX.701 et seq., or successor regulations. New operators must submit Form OR-1 (Organization Report) to receive a permanent Operator Code number (no fee required);

2. a nonrefundable hearing fee in the amount required by Statewide Order No. 29-R-00/01, LAC 43:XIX.701 et seq., or successor regulations;

3. a list of names, addresses, and telephone numbers of the principal officers of the company or corporation and the names and addresses of local governing authorities;

4. to document compliance with the location criteria of §507.A.2, provide a list of the names and addresses of all property owners, residents, off-set operators and industrial facilities within one-quarter mile of the proposed facility or disposal well. Include copies of waivers required by §507.B, where applicable. Include a map drawn to scale showing the following information:

a. property boundaries of the commercial facility or transfer station;

b. the boundaries and ownership of all land adjacent to the commercial facility or transfer station;

c. the location and identification of all residential, commercial, or public buildings or hospitals within one-quarter mile of the facility property boundaries; and

d. all public supply wells and the boundaries of all DEQ designated source water supply and wellhead protection areas within one mile of the proposed facility;

5. a detailed schematic diagram of the proposed facility of sufficient scale to show the placement of access roads, buildings, and unloading areas, and the location and identification of all storage tanks, barges, and other containers (including design capacities), treatment system/equipment, levees, flowlines, filters, the Class II disposal well(s), and all other equipment and operational features of the storage, treatment and/or disposal system;

6. for operators proposing the construction and operation of a Class II disposal well, complete the appropriate application form, including all required attachments. To document compliance with the location criteria of §507.A.3, the application must provide strike and dip geologic cross sections intersecting at the location of the disposal well for which a permit is sought. These cross sections must include, at a minimum, available log control, geologic units, and lithology from the surface to the lower confining bed below the injection zone. The sections shall be on a scale sufficient to show the local geology in at least a two-mile radius from the proposed disposal well. The following information must be included on these cross-sections:

a. the base of underground sources of drinking water (USDW's);

b. the vertical and lateral limits of the proposed injection zone (reservoir);

c. the vertical and lateral limits of the upper and lower confining beds; and

d. the location of faults or other geologic structures;

7. documentation of compliance with the applicable location criteria of §507.A.4 and 5, with regard to flood zones and wetland areas;

8. a copy of the title to the property upon which the facility will be located. If a lease, option to lease or other

agreement is in effect on the property, a copy of this instrument shall be included in the application;

9. a parish map of sufficient scale to identify the location of the proposed facility;

10. a topographic map showing the location of the proposed site and any highways or roads that abut or traverse the site, all water courses, flood plains, water wells, and pipelines within one mile of the site boundary;

11. as required in §515, provide a detailed E&P Waste management and operations plan that includes, but is not limited to the proposed method of operation of the facility and procedures for the receipt, storage, treatment and/or disposal of E&P Wastes;

12. documentation that the facility and/or disposal well will comply with the applicable design criteria of §509;

13. evidence of financial responsibility for any liability for damages which may be caused to any party by the escape or discharge of any material or E&P Waste from the commercial facility or transfer station, in compliance with the requirements of §511. The application shall contain documentation of the method by which proof of financial responsibility will be provided by the applicant. Where applicable, include a copy of a draft letter of credit, bond, or any other evidence of financial responsibility acceptable to the commissioner. Prior to beginning construction, final (official) documentation of financial responsibility must be submitted to and approved by the commissioner;

14. documentation that a bond or irrevocable letter of credit will be provided for adequate closure of the facility, in compliance with the requirements of §513. The application must include the following:

a. a detailed cost estimate for adequate closure of the proposed facility. The cost estimate must include a detailed description of proposed future closure procedures including, but not limited to plugging and abandonment of the disposal well(s) (if applicable), plugging of any monitor wells according to applicable state regulations, closing out any sumps, storm water retention (sediment) ponds, or land treatment cells, removing all surface equipment, and returning the environment (site) as close as possible to its original state. The closure plan and cost estimate must be prepared by an independent professional consultant, must include provisions for closure acceptable to the commissioner, and must be designed to reflect the costs to the commissioner to complete the approved closure of the facility;

b. a draft irrevocable letter of credit or bond in favor of the state of Louisiana and in a form which includes wording acceptable to the commissioner. Upon completion of the application review process, the commissioner will set the amount of the required bond or irrevocable letter of credit. The bond or letter of credit must be renewable on October 1 of each year and must be submitted to and approved by the commissioner prior to beginning construction;

15. verification that a discharge permit has been obtained from the appropriate state or federal agencies or copies of any applications submitted to such agencies. If a facility does not intend to discharge treated E&P Waste water or other water, a completed and notarized Affidavit of No Discharge, which includes wording acceptable to the commissioner, must be provided;

16. a list of all other licenses and permits needed by the applicant to conduct the proposed commercial activities. Include identification number of applications for those permits or licenses or, if issued, the identification numbers of the permits or licenses;

17. provide the names of all companies currently or formerly owned and/or operated by the applicant (company requesting a permit) and/or the principal officers of the applicant for the receipt, storage, treatment, recycling and/or disposal of E&P Waste or hazardous or nonhazardous industrial or municipal solid waste;

18. provide a list of local, state and/or federal permits currently or formerly held by the applicant and/or any of the principal officers of the applicant for the storage, treatment, recycling and/or disposal of E&P Waste or hazardous or nonhazardous industrial or municipal solid waste;

19. for each permit included on the list required in §519.C.18 above, provide a list of all environmental regulatory violations, if any, cited by applicable local, state or federal regulatory agencies, including all resulting notices of violation, compliance orders, penalty assessments, or other enforcement actions and the current compliance status of each violation. Such list shall include all violations cited within the 5 years immediately preceding the date of application for a commercial facility or transfer station permit;

20. the names and addresses of the official journal of the parish in which the proposed facility will be located and the journal of general circulation in the area where the proposed facility is to be located, if different from the official parish journal;

21. certification by an authorized representative of the applicant that information submitted in the application is true, accurate and complete to the best of the applicant's knowledge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2811 (December 2000), amended LR 27:1905 (November 2001).

§521. Permit Application Requirements for a Transfer Station

A. The application for construction and operation of a transfer station by an existing Louisiana commercial facility permitted by the Office of Conservation shall include, but may not be limited to, the information required in §519.C.

B. The application for construction and operation of a transfer station by the operator of an out-of-state, legally permitted commercial facility shall consist of the following:

1. compliance with the notice of intent requirements of §519.B; and

2. submission of the information required in §519.C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2811 (December 2000), amended LR 27:1906 (November 2001).

§523. Permit Application Requirements for Land Treatment Systems

A. In addition to the information requested in §519.C above, the information required in this section must be provided in duplicate in each application for approval of a

commercial facility incorporating the use of land treatment cells.

B. A detailed description of the site considered for land treatment with relation to the following:

1. past and present land use;
2. geology/soil properties/hydrogeology;
3. drainage and flood control;
4. hydrologic balance; and
5. highest seasonal groundwater level.

C. A detailed description of the facility design including maps and drawings and a discussion of the following:

1. site layout;
2. proposed waste application technique;
3. drainage control;
4. proposed waste loading rate; and
5. expected facility life.

D. An explanation of the proposed E&P Waste management plan with reference to the following topics:

1. sampling and testing of incoming waste (waste acceptance procedures);
2. method of receiving waste;
3. waste segregation;
4. application scheduling;
5. waste-soil mixing;
6. proposed land treatment cell and groundwater monitoring plan;
7. reuse stockpile management plan (see §565.G); and
8. an air emissions (odor) reduction and monitoring plan that addresses such sources as:

- a. the volatilization of organic materials and/or hydrogen sulfide in the E&P Waste;
- b. particulate matter (dust) carried by the wind;
- c. periodic removal and subsequent handling of free oil; and
- d. chemical reactions (e.g., production of hydrogen sulfide from sulfur-bearing E&P Wastes).

E. Detailed information concerning closure and post-closure activities and monitoring as follows:

1. proposed closure procedures;
2. post-closure maintenance; and
3. closure and post-closure monitoring.

F. Documentation of compliance with the location criteria of §507.A.4 and 5.

G. Documentation that the land treatment facility operation requirements of §549 can be met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2811 (December 2000), amended LR 27:1906 (November 2001).

§525. Permit Application Requirements for Other Treatment and Disposal Options

A. In addition to the information requested in §519.C, the following information required in this section must be provided in duplicate in each application for approval of a commercial facility incorporating the use of treatment and/or disposal options other than land treatment and as defined in §547.

B. A detailed description of the site with relation to the following:

1. past and present land use;
2. geology/soil properties/hydrogeology;
3. drainage and flood control;
4. hydrologic balance; and
5. highest seasonal groundwater level.

C. A detailed description of the facility design including maps and drawings and a discussion of the following:

1. site layout;
2. proposed waste application technique;
3. drainage control;
4. proposed waste treatment rates; and
5. expected facility life;

D. An explanation of the proposed E&P Waste management plan with reference to the following topics:

1. sampling and testing of incoming waste (waste acceptance procedures);
2. method of receiving waste;
3. waste segregation;
4. proposed waste treatment monitoring plan;
5. reuse stockpile management plan (see §565.G); and
6. air emissions (odor) reduction and monitoring plan that addresses such sources as:
 - a. the volatilization of organic materials and/or hydrogen sulfide in the E&P Waste;
 - b. particulate matter (dust) carried by the wind;
 - c. periodic removal and subsequent handling of free oil; and
 - d. chemical reactions (e.g., production of hydrogen sulfide from sulfur-bearing E&P Wastes).

E. Detailed information concerning closure and post-closure activities and monitoring as follows:

1. proposed closure procedures;
2. post-closure maintenance; and
3. closure and post-closure monitoring.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation LR 27:1907 (November 2001).

§527. Permitting Procedures

A. The Office of Conservation will review a new commercial facility or transfer station application within 90 days of receipt and inform the applicant of its completeness.

B. If the application is not complete, the applicant shall be advised of additional information to be submitted for approval or the application shall be returned and the applicant will be required to resubmit the application.

C. Upon acceptance of the application as complete, the Office of Conservation shall set a time and date and secure a location for the required public hearing to be held in the affected parish.

D. The public hearing shall be fact finding in nature and not subject to the procedural requirements of the Administrative Procedure Act. All interested persons shall be allowed the opportunity to present testimony, facts, or evidence related to the application or to ask questions.

E. At least 30 days prior to the hearing, the applicant is required to file six copies of the complete application with the local governing authority of the parish in which the proposed facility is to be located to be made available for public review. Two additional copies of the complete application shall be filed in the parish library closest to the proposed facility.

F. Permit Issuance

1. The commissioner shall issue a final permit decision within 120 days of the close of the public comment period.

2. A final permit decision shall become effective on the date of issuance.

3. A permit to construct a commercial facility or transfer station (and any associated disposal well) will not be granted until a certified copy of a lease or proof of ownership of the property where the proposed facility is to be located is submitted to the Office of Conservation.

4. Approval or the granting of a permit to construct a commercial facility or transfer station (and any associated disposal well) shall be valid for a period of one year and if construction is not completed in that time, the permit shall be null and void. Requests for an extension of this one year requirement may be approved by the commissioner for extenuating circumstances only.

G. The application for construction and operation of a new or additional transfer station by an existing commercial E&P Waste treatment and/or disposal facility permitted by the Office of Conservation to operate within the State of Louisiana shall be administratively approved or denied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Promulgated by the Department of Natural Resources, Office of Conservation LR 27:1907 (November 2001).

§529. Public Notice Requirements

A. Permit Application Public Hearing Notice

1. Upon acceptance of the application as complete, the Office of Conservation shall publish in the next available issue of the *Louisiana Register*, a notice of the filing and the location, date and time of the public hearing to be held in the affected parish. Such public hearing shall not be less than 30 days from the date of notice in the *Louisiana Register*.

2. At least 30 days prior to the scheduled public hearing, the Office of Conservation shall publish a notice of the filing of the application and the location, date and time of the hearing in the official state journal.

3. The applicant shall publish a substantially similar notice in the official journal of the affected parish and in the journal of general circulation in the area where the proposed facility is to be located, if different from the official parish journal, on three separate days at least 15 days prior to the date of the hearing. Such notice shall not be less than one-quarter page in size and printed in boldface type.

B. Applications submitted on Form UIC-2 SWD (or latest revision) for a new commercial saltwater disposal well or Form UIC-32 (or latest revision) to recomplete a Class II commercial disposal well into a new disposal zone shall be advertised once in the legal ad section of the official state journal, in the official parish journal where the facility is located and in the journal of general circulation in the area where the facility is located, if different from the official

parish journal. Such notice shall contain language acceptable to the Commissioner and shall allow a 15 day comment period. At their own risk, companies may initiate workover activities prior to the end of the comment period. However, the well may not be utilized for injection until the public comment period has ended, the completion report has been submitted and approved and the well has been successfully tested for mechanical integrity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:1908 (November 2001).

§531. Permitting Conditions

A. The Office of Conservation may refuse to issue, reissue, or reinstate a commercial facility or transfer station permit or authorization to the following:

1. any individual, partnership or other entity which has been found to have violated any provision of LAC 43:XIX.Subpart 1 (Statewide Order No. 29-B) or has other violations which include, but is not limited to, failure to provide for proper closure of an oil, gas or injection well, commercial facility, transfer station and/or other oilfield site, failure to pay all fees, or failure to pay all civil penalties;

2. any individual, partnership, corporation or other entity for which a general partner, an owner of more than twenty-five percent ownership interest, a trustee, or other individual having direct or indirect control of the entity has held a position of ownership and/or control in another partnership, corporation or other entity which has been found to have violated any provision of LAC 43:XIX.Subpart 1 (Statewide Order No. 29-B) or has other violations which include, but is not limited to, failure to provide for proper closure of an oil, gas or injection well, commercial facility, transfer station and/or other oilfield site, failure to pay all fees, or failure to pay all civil penalties;

3. any individual, partnership, corporation or other entity for which a general partner, an owner of more than twenty-five percent ownership interest, a trustee, or other individual having direct or indirect control of the entity has held a position of ownership and/or control in another partnership, corporation or other entity which has been found, either contemporaneously with or discovered later, to have submitted false or intentionally misleading reports or responses to the orders of the Office of Conservation.

B. The Office of Conservation may refuse to issue, reissue, or reinstate a commercial facility or transfer station permit or authorization to an individual or entity that has committed a violation of any provision of LAC 43:XIX.Subpart 1 (Statewide Order No. 29-B) or other violations which may subject it to the penalty set forth herein if any one of the following has occurred.

1. An order finding the violation has been entered against the individual or entity and all appeals have been exhausted or the individual or entity has failed to timely and appropriately request a hearing and the individual or entity is not in compliance or on a schedule for compliance with an order.

2. The Commissioner of Conservation and the individual or entity have entered into an agreed order relating to the alleged violation and the individual or entity is not in compliance or on a schedule of compliance with an order.

C. The commissioner may deny an application for a commercial facility or transfer station based upon the regulatory compliance history of the applicant required in §519.C.17, 18 and 19.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation LR 27:1908 (November 2001).

§533. General Operational Requirements for Commercial Facilities and Transfer Stations

A. Commercial facilities and transfer stations shall be operated in compliance with, but not limited to, the following.

1. The area within the confines of tank retaining walls (levees) shall be kept free of debris, trash, and accumulations of oil or other materials which may constitute a fire hazard. Portable gasoline powered engines and pumps must be supervised at all times of operation and stored at least 50' from tank battery firewalls when not in use. Vent lines must be installed on all E&P Waste storage tanks and must extend outside of tank battery firewalls.

2. The area within the confines of tank retaining walls (levees) must be kept free of accumulations of E&P Waste fluids and water. Such fluids shall be properly disposed of by injection into a Class I well or discharged in accordance with the conditions of a discharge permit granted by the appropriate state agency.

3. Tank retaining walls and land treatment cell levees shall be kept free of debris, trash, or overgrowth which would constitute a fire hazard or hamper or prevent adequate inspection.

4. Land treatment cell and associated surface drainage system surfaces shall at no time have an accumulation of oil of more than one inch at any surface location.

5. Land treatment cell levels shall be maintained with at least two feet of freeboard at all times.

6. Tank retaining walls (levees) must be constructed of soils which are placed and compacted in such a manner as to produce a barrier to horizontal movement of fluids. The levees must be properly tied into the barrier along the bottom and sides of the levees. All levees must be provided with a means to prevent erosion and other degradation.

B. All facilities and systems for treatment, control, and monitoring (and related appurtenances) which are installed or used to achieve compliance with the conditions of a permit shall be properly operated and maintained at all times.

C. Inspection and entry by Office of Conservation personnel shall be allowed as prescribed in R.S. 30:4.

D. Discharges from land treatment cells, tanks, tank retaining walls and/or barges into man-made or natural drainage or directly into state waters will be allowed only after the necessary discharge permit has been obtained from the appropriate state and/or federal agencies and in accordance with the conditions of such permit.

E. A sign shall be prepared, displayed and maintained at the entry of each permitted commercial facility or transfer station. Such sign shall utilize a minimum of one-inch lettering to state the facility name, address, phone number, and site code shall be made applicable to the activities of each facility according to the following example:

"This E&P waste (storage, treatment and/or disposal) facility has been approved for (temporary storage, treatment and/or disposal) of exploration and production waste only and is regulated by the Office of Conservation. Violations shall be reported to the Office of Conservation at (225) 342-5515."

F. A vertical aerial color photograph (or series of photographs) with stereoscopic coverage of each Type A land treatment facility must be obtained during the month of October every two years and provided to the Office of Conservation by November 30 of the year the photo is taken. Such photograph(s) must be taken at an original photo scale of 1" = 1000' to 1" = 500' depending on the size of the facility. Photo(s) are to be provided as prints in either 8" x 10" or 9" x 9" formats. The commissioner may require more frequent aerial photos as deemed necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:1909 (November 2001).

§535. Notification Requirements

A. Any change in the principal officers, management, or ownership of an approved commercial facility or transfer station must be reported to the commissioner in writing within 10 days of the change.

B. Transfer of Ownership

1. A commercial facility or transfer station permit may be transferred to a new owner or operator only upon approval by the commissioner. The new owner or operator must apply for and receive an operator code by submitting a completed Form OR-1 (or latest revision) to the Office of Conservation.

2. The current permittee shall submit an application for transfer at least 30 days before the proposed transfer date. The application shall contain the following:

a. name and address of the proposed new owner (permittee);

b. date of proposed transfer; and

c. a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, financial responsibility, and liability between them.

3. If no agreement described in §535.B.2.c above is provided, responsibility for compliance with the terms and conditions of the permit and liability for any violation will shift from the existing permittee to the new permittee on the date the transfer is approved.

C. Commercial facility and transfer station operators shall give written notice to the commissioner of any planned physical or operational alterations or additions to a permitted facility or proposed changes in the E&P Waste management plan. Requests to make such changes must be submitted to and approved by the commissioner prior to beginning construction or accomplishing the change by other means.

D. The operator of a newly approved commercial facility, transfer station, and/or disposal well must notify the commissioner when construction is complete. The operator shall not commence receiving E&P Waste or injecting E&P Waste fluids until the facility has been inspected for compliance with the conditions of the permit and the disposal well has been tested for mechanical integrity.

E. An operator of a commercial facility or transfer station shall report to the commissioner any noncompliance, including but not limited to those which may endanger public health, safety or welfare or the environment, including, but not limited to, impacts to surface waters, groundwater aquifers and underground sources of drinking water, whether onsite or offsite. Such notice shall be made orally within 24 hours of the noncompliance and followed by written notification within five days explaining details and proposed methods of corrective action.

F. When a commercial facility or transfer station operator refuses to accept a load of unauthorized waste (not meeting the definition of E&P Waste), the Office of Conservation shall be notified immediately by electronic submission (facsimile) of a completed Form UIC-26 and the manifest which accompanied the shipment of unauthorized waste or otherwise provide the names of the generator and transporter of the unauthorized waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:1909 (November 2001).

§537. Hours of Receiving

A. Commercial facilities and transfer stations shall be adequately manned during hours of receiving and shall receive E&P Waste by truck during daylight hours only. Daylight hours shall be defined as the daily hours for sunrise and sunset as listed in table Number 1119 entitled "Sunrise and Sunset at Baton Rouge, Louisiana," prepared by the Nautical Almanac Office, United States Naval Observatory, Washington, DC 20390.

B. The commissioner may grant approval for after hours (nighttime) receipt of E&P Waste by a commercial facility or transfer station (by truck) when an emergency condition exists which may endanger public health or safety or the environment and to minimize the potential for same. Generators shall be responsible for obtaining prior approval for nighttime disposal by calling the Office of Conservation at (225) 342-5515. When such approval has been granted, the Office of Conservation shall notify the commercial facility or transfer station which will receive the E&P Waste and may notice the state police.

C. Commercial facilities and transfer stations with barge terminals may receive E&P Waste transported by barge on a 24-hour a day basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:1910 (November 2001).

§539. Monitoring Requirements for Commercial Class II Injection Wells

A. Except during approved workover operations, a positive pressure of no less than 100 psi shall be maintained on the well annulus at all times. An injection volume recorder (tamper proof meter) must be installed and properly maintained on the injection line of each disposal well system. Injected volumes must be recorded monthly and the readings reported monthly on the Commercial Class II Daily Monitoring Log (Form UIC-21, or latest revision) and annually on the annual injection well report.

B. Except during approved workover operations, wells shall be equipped with pressure gauges located on the wellhead, and situated so as to monitor the pressure of the injection stream and the pressure of the annular space between the casing and the injection string.

C. The pressure gauges shall have half-inch fittings, be scaled in increments of not more than 10 psi, and be maintained in good working order at all times.

D. A daily pressure monitoring log shall be maintained by the operator of the facility and shall contain, as a minimum, the following information:

1. the date;
2. the operator's name and address;
3. the well name, number and serial number;
4. the monitored injection pressure;
5. the monitored annulus pressure;
6. whether or not the well was injecting at the time the pressures were recorded; and
7. the name or initials of the person logging the information.

E. The pressure gauges shall be read and pressures recorded in the daily log.

F. The daily log information shall be recorded on the appropriate form and submitted to the Office of Conservation within 15 days of the end of each month.

G. Any discrepancies in the monitored pressures, which would indicate a lack of mechanical integrity and constitute noncompliance with applicable sections of this chapter, shall be reported orally to the Office of Conservation within 24 hours.

H. The commissioner may require, on a case-by-case basis, the installation of a 24-hour chart recorder to monitor injection pressures, injection rates, annulus pressure and injected volumes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:1910 (November 2001).

§541. Sampling and Testing Requirements for Commercial Facilities with Monitor Wells

A. At the discretion of or as determined by the Commissioner, monitor wells may be required to be installed at any commercial facility or transfer station.

B. Water samples from monitor wells shall be sampled by an independent professional consultant and analyzed by an independent testing laboratory. Samples shall be analyzed for pH, electrical conductivity (EC), chloride (Cl), sodium (Na), total dissolved solids (TDS), total suspended solids (TSS), total petroleum hydrocarbons (TPH-ppm), total benzene, As, Ba, Cd, Cr, Cu, Pb, Hg, Mo, Ni, Se, Ag, and Zn.

C. Water from newly constructed monitor wells on new commercial facilities shall be sampled and analyzed prior to receipt of E&P Waste by the facility to provide baseline data for the monitoring system. This data shall be submitted to the Office of Conservation to be made part of the facility's permanent file.

D. Water from monitor wells on existing facilities shall be sampled and analyzed on a quarterly basis, with a copy of the analysis submitted to the Office of Conservation within 15 days of the end of each quarter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:1910 (November 2001).

§543. Receipt, Sampling and Testing of Exploration and Production Waste

A. Only E&P Waste (as defined in §501) from approved generators of record may be received at commercial facilities and transfer stations. Other generators of E&P Waste must receive written approval of the Office of Conservation in order to dispose of approved E&P Waste at a commercial facility or transfer station.

B. For screening purposes and before offloading at a commercial facility or transfer station, each load of E&P Waste shall be sampled and analyzed (by facility personnel) for the following parameters:

1. pH, electrical conductivity, chloride (Cl) content;
2. NORM, as required by applicable DEQ regulations and requirements.

C. The commercial facility or transfer station operator shall enter the pH, electrical conductivity, and chloride (Cl) content on the manifest (Form UIC-28, or latest revision) which accompanies each load of E&P Waste.

D. An 8-ounce sample (minimum) of each load must be collected and labeled with the date, operator and manifest number. Each sample shall be retained for a period of 30 days.

E. Records of these tests performed pursuant to the requirements of this Section shall be kept on file at each facility for a period of three years and be available for review by the commissioner or his designated representative.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation LR 27:1911 (November 2001).

§545. Manifest System

A. In order to adequately monitor the movement and disposal of E&P Waste, every shipment of E&P Waste transported to a commercial facility or transfer station shall be accompanied by a manifest entitled "E&P Waste Shipping Control Ticket." It is expressly forbidden to transport or accept E&P Waste without a properly completed manifest form.

B. For companies who do not possess an Office of Conservation operator code number, Form UIC-23 (or latest revision) must be approved prior to transporting E&P Waste (including Waste Type 99) to a commercial facility or transfer station.

C. For those generators who do possess an operator code number, authorization must be obtained prior to transporting Waste Type 99 to a commercial facility or transfer station.

D. At the time of transport, the generator shall initiate the manifest by completing and signing Part I. After the transporter completes and signs Part II, the generator shall retain Generator Copy No. 1 (green) for his files. All other copies shall accompany the E&P Waste shipment.

E. Upon delivery of the E&P Waste, the commercial facility or transfer station shall complete and sign Part III of the manifest. The transporter shall then retain the Transporter's Copy (pink) for his files.

F. Upon completion of the manifest, the commercial facility or transfer station operator shall mail Generator Copy No. 2 to the generator.

G. The original manifest for each load of E&P Waste received must be retained by the commercial facility or transfer station operator and stored in a secure and accurate filing system. In order to be available for review during site inspections, the manifests for the current months E&P Waste receipts and the prior months E&P Waste receipts must be maintained at the waste disposal facility (commercial facility or transfer station site) where the E&P Waste (and the manifest) was received (destination of the waste).

H. Original manifests must be retained for a period of not less than three years in a manner acceptable to the Commissioner of Conservation and made available for review or submitted to the Office of Conservation upon request.

I. The generator and transporter operator shall maintain file copies of completed manifests for a period of not less than three years.

J. Oil and gas, commercial facility, and transfer station operators who transport E&P Waste out-of-state to a permitted disposal facility or receive E&P Waste from out-of-state must comply with the manifest system requirements of this Section.

K. A monthly report of E&P Waste receipts shall be completed by each commercial facility, transfer station or DEQ permitted facility as defined by LAC 33:V and VII (that receives E&P Waste) on Form UIC-19, or latest revision, and submitted to the Office of Conservation within 15 days of the end of each month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:1911 (November 2001).

§547. Commercial Exploration and Production Waste Treatment and Disposal Options

A. Commercial facilities and transfer stations may be permitted to conduct one or more of the following acceptable commercial E&P Waste treatment and disposal options.

1. Class II Injection Well. Produced salt water is required to be disposed by injection into a Class II well pursuant to the requirements of Chapter 4 of LAC 43:XIX. Other E&P Waste fluids may be injected into a Class II well upon approval of the Office of Conservation. Class II wells may be operated in conjunction with other treatment and disposal options. The requirements for permitting a Class II well are found in Chapter 4 of these regulations (LAC 43:XIX.401 et seq.).

2. Class II Well Slurry Fracture Injection. The process of mixing E&P Waste solids with fluids for subsurface injection. The solids/fluids mixture (slurry) is then pumped at or above fracture gradients into a suitably characterized subsurface reservoir. A series of fractures are created forming a sphere around the perforated interval. These fractures grow at different orientations around the wellbore and constitute the disposal domain. Slurry fracture injection can only be approved when appropriate regulations are adopted/promulgated.

3. Land Treatment. A dynamic process involving the controlled application of E&P Waste onto or into the aerobic surface soil horizon by a commercial facility, accompanied by continued monitoring and management, to alter the physical, chemical, and biological state of the E&P Waste. Site, soil, climate, and biological activity interact as a system to degrade and immobilize E&P Waste constituents thereby rendering the area suitable for the support of vegetative growth and providing for beneficial future land use or to meet the reuse criteria of §565. The requirements for permitting a land treatment system are found in §519.C and §523.

4. Phase Separation. The process of treating or pretreating oil and gas E&P Waste by physical and/or chemical methods which separate the fluid (water), solid, and oily fractions. Such process can be accomplished by any number of methods, including, but not limited to the use of a centrifuge, belt-press, flocculation, or other methods. The fractions are then further treated or disposed by other acceptable methods. Fluids generally are required to be disposed of into a Class II disposal well. Solids may be further treated or disposed of by one of the options listed herewith. Oil may be sent to a salvage oil reclaimer or sold to a refiner. The equipment and processes utilized in phase separation of E&P Waste must be described in detail in the permit application.

5. Thermal Desorption. The process of heating E&P Waste in an enclosed chamber under either oxidizing or non-oxidizing atmospheres at sufficient temperature and residence time to vaporize organic contaminants from contaminated surfaces and surface pores and to remove the contaminants from the heating chamber in a gaseous exhaust system. The equipment and processes utilized in thermal desorption of E&P Waste must be described in detail in the permit application. The criteria for treatment of E&P Waste by thermal desorption will be set on a case-by-case basis.

6. Cavern Disposal. The utilization of a solution-mined salt cavern for the disposal of E&P Waste fluids and solids. Cavern disposal can only be approved when appropriate regulations are adopted/promulgated.

7. Incineration. The burning of organic E&P Waste materials. This treatment/disposal technique is used to destroy organic compounds with the reduction of the material to its mineral constituents. The equipment and processes utilized to incinerate E&P Waste must be described in detail in the permit application. The criteria for treatment of E&P Waste by incineration will be set on a case-by-case basis.

8. Solidification (Chemical Fixation). The addition of agents to convert liquid or semi-liquid E&P Waste to a solid before burial to reduce leaching of E&P Waste material and the possible migration of the E&P Waste or its constituents from the facility. The equipment and processes utilized to solidify E&P Waste must be described in detail in the permit application. The criteria for treatment of E&P Waste by solidification will be set on a case-by-case basis.

9. Stabilization (Chemical Fixation). An E&P Waste treatment process that decreases the mobility or solubility of E&P Waste constituents by means other than solidification.

Examples of stabilization techniques include chemical precipitation or pH alteration to limit solubility and mixing of E&P Waste with sorbents such as fly ash to remove free liquids. The equipment and processes utilized to stabilize E&P Waste must be described in detail in the permit application. The criteria for treatment of E&P Waste by stabilization will be set on a case-by-case basis.

B. The Office of Conservation will consider new and innovative treatment and/or disposal options on a case-by-case basis. The equipment and processes utilized by technologies other than those listed above to treat or dispose of E&P Waste must be described in detail in the permit application. The criteria for treatment of E&P Waste by other technologies will be set on a case-by-case basis.

C. Produced water (Waste Type 01 – saltwater) is subject to the disposal restrictions of §503.C.

D. Waste Types 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 14, 15, 16, and 99 (and associated washwater) may be treated and disposed by land treatment methods in accordance with the buffer (location) requirements of §507.A.3.

E. Waste Type 12 and wash water (Waste Type 10) generated in the cleaning of vessels containing Waste Type 12 may not be land treated unless the MPC requirements of §503.F and G and §549.C.7.a are met.

F. All E&P Waste types may be treated or disposed by Class II slurry fracture injection, phase separation, thermal desorption, cavern disposal, incineration, solidification or stabilization methods.

G. Transfer stations may receive all E&P Waste types without restriction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:1911 (November 2001).

§549. Land Treatment Facility Requirements

A. Land treatment facilities shall be isolated from contact with public, private, or livestock water supplies, both surface and underground.

B. The siting, design, construction, operation, testing and closure of land treatment facilities shall be approved only after an application is submitted to and approved by the commissioner pursuant to the requirements of §519, §527, and §531.

C. General Requirements

1. The soil shall contain a slowly permeable horizon no less than 12 inches thick containing enough fine grained material within three feet of the surface to classify it as CL, OL, MH, CH, or OH under the Unified Soil Classification System.

2. The seasonal high water table shall be maintained throughout the facility's operational life at least 36" below the soil surface, either as a result of natural or artificial drainage.

3. Throughout the operational life of a land treatment cell, in order to end the treatment phase and re-enter the application phase, a cell must be shown to comply with the following criteria:

Parameter	Limitation
PH	6.5-9
EC	10 mmhos/cm
SAR	12
ESP	15 percent
TPH	3 percent (by weight)
Metals (ppm)	
Arsenic	40
Total Barium	100,000
Cadmium	10
Chromium	1,000
Copper	1,500
Lead	300
Molybdenum	18
Nickel	420
Mercury	10
Selenium	10
Silver	200
Zinc	500

4. The concentration of measured constituents in any groundwater aquifer shall at no time significantly exceed background water quality data.

5. Fluids collected in a land treatment cell underdrain system shall be monitored to provide early warning of possible migration of mobile E&P Waste constituents. The monitoring program shall be defined in the permit application or the facility E&P Waste management and operations plan.

6. An independent professional consultant and laboratory shall perform the necessary monitoring to assure adherence to the requirements of this Section.

7. E&P Waste Pretreatment and Treatment

a. Waste Type 12 which contains a concentration of total benzene equal to or less than 3198 mg/kg total benzene (MPC) may be placed on land treatment cells without pretreatment. However, in treating such E&P Waste, the commercial land treatment facility must meet the location criteria of §507.A.3.

b. Land treatment facilities which have been approved to receive Waste Type 12 which contain more than 3198 mg/kg total benzene must pretreat the E&P Waste to a concentration less than or equal to 3198 mg/kg total benzene (MPC) before placing the E&P Waste on a land treatment cell (see §505.B).

c. Waste Type 06 which has been tested and found to contain a total benzene concentration less than or equal to 113 mg/kg (MPC) may be land treated no closer than 1,000' from a residential or public building, church, school, or hospital.

d. Waste Type 06 which has not been tested or tested and found to contain a total benzene concentration greater than 113 mg/kg (MPC) must be land treated no closer than 2,000' from a residential or public building, church, school, or hospital.

e. Free/visible oil must be removed from all E&P Waste prior to loading on a land treatment cell.

f. Produced saltwater and gas plant waste fluids, must not be disposed of by land treatment. If pretreated prior to disposal (e.g., filtered or otherwise phase separated) fluids must be injected into a Class II well.

8. Application Phase

a. E&P Waste may be applied to active land treatment cells during the application phase only. An application phase begins only under the following conditions:

i. a new constructed and approved cell begins receipt of E&P Waste;

ii. a cell containing treated E&P Waste has been shown to meet the testing criteria of §549.C and is utilized for the application of new E&P Waste receipts;

iii. a cell from which treated E&P Waste has been removed (after meeting the reuse testing criteria of §565) is utilized for the application of new E&P Waste receipts.

b. An application phase ends when either one of the following occurs:

i. three months have elapsed since the date application first began, unless an exception is granted upon proof of good cause under the provisions of §569; or

ii. 15,000 bbls/acre of E&P Waste has been applied to a cell.

c. In order to document the amount of E&P Waste applied to each land treatment cell, commercial facilities are required to:

i. indicate on each manifest (E&P Waste shipping control ticket) the number of the cell onto which each load of E&P Waste is applied;

ii. maintain a daily or weekly log of type and volume of E&P Wastes applied to each land treatment cell and the activities undertaken to bring each cell into compliance; and

iii. include in the quarterly report the amount of each type of E&P Waste applied to each cell and the activities undertaken to bring each cell into compliance during the quarter.

9. Treatment Phase. Upon completion of the application phase, land treatment cells enter the treatment phase. Remedial action (treatment) must be actively performed in order to bring a cell into compliance with this Section. Cells must reach compliance status within 24 months of the end of the application phase.

10. Land treatment cell levees must be constructed of soils which are placed and compacted in such a manner as to produce a barrier to horizontal movement of fluids. Levee construction material shall be compacted in a maximum of 8" lifts to > 90 percent standard proctor test. The levees must be properly tied into the barrier along the bottom and sides of the cells. Actual construction of the levees must be monitored and documented by professional engineering or geotechnical soil testing company. All levees must be provided with a means to prevent erosion and other degradation.

11. Rainwater and other E&P Waste fluids are not to be stored on land treatment cells. Such fluids are to be removed from cells in a timely manner and stored in appropriate facilities. Such fluids may only be used for removal of salts during the treatment phase. Otherwise, cells must remain free of excessive fluids.

12. Storm water retention (sediment) ponds constructed after January 1, 2002 must be constructed in compliance with the liner requirements for produced water pits in LAC 43:XIX.307.A and the land treatment levee requirements of §549.C.10 above. Such ponds must not have an accumulation of oil at any surface location.

D. Monitoring Requirements

NOTE: References for the parameters required in this Section are listed as follows:

EC Electrical conductivity (millimhos/cm for soil, micromhos/cm for water)

SAR Sodium adsorption ratio

ESP Exchangeable sodium percentage (percent)

CEC Cation exchange capacity (milliequivalents/100 gm soil)

TPH—total petroleum hydrocarbons (ppm)

Total benzene (ppm)

TCLP benzene (Toxicity Characteristic Leaching Procedure – ppm)

Total metals as follows:

As Arsenic

Ba Barium

Cd Cadmium

Cr Chromium

Cu Copper

Pb Lead

Hg Mercury

Mo Molybdenum

Ni Nickel

Se Selenium

Ag Silver

Zn Zinc

TDS total dissolved solids

TSS total suspended solids

Soluble cations:

Na sodium

Ca calcium

Mg magnesium

Soluble anions:

CO₃ carbonate

HCO₃ bicarbonate

Cl chloride

SO₄ sulfate

1. Prior to the receipt of E&P Waste in a newly permitted and constructed land treatment system or cell, baseline data must be provided by the following sampling and testing program.

a. Soil in the treatment zone (0-24") of each cell must be sampled and tested for the following parameters: pH, EC, SAR, ESP, CEC, TPH, As, Ba, Cd, Cr, Cu, Pb, Hg, Mo, Ni, Se, Ag, and Zn.

b. Groundwater must be sampled and tested for the following parameters: pH, EC, TDS, TSS, TPH, Cl, Total Benzene, Na, As, Ba, Cd, Cr, Cu, Pb, Hg, Mo, Ni, Se, Ag, and Zn.

c. Water from land treatment cell underdrain systems must be sampled and tested for the following parameters: TDS, pH, Na, Cl, EC, TPH, total benzene, Ba, Pb, Zn, and reactive sulfides.

2. The following monitoring program must be conducted during the active life of a permitted E&P Waste land treatment system:

a. Soil in the treatment zone (waste treatment zone - WTZ and upper treatment zone - UTZ) must be sampled and tested quarterly to determine E&P Waste degradation and accumulation of metals and hydrocarbons. Samples must be analyzed for the following: As, Ba, Cd, Cr, Cu, Pb, Hg, Mo, Ni, Se, Ag, Zn, and TPH.

b. Soil in the treatment zone (waste treatment zone - WTZ and upper treatment zone - UTZ) must be sampled and tested quarterly to determine the accumulation of salts and to provide data for determining necessary soil amendments. Samples must be analyzed for the following: pH, EC, SAR, ESP, CEC, soluble cations (Na, Ca, Mg), and soluble anions (CO₃, HCO₃, Cl, SO₄).

c. Discharge Water. A copy of each discharge monitoring report made in conformance with any applicable state and/or federal regulatory program shall be furnished to the Office of Conservation on a timely basis.

d. Land treatment cell underdrain systems must be sampled and tested quarterly to determine the presence of mobile constituents. Sampling and testing shall be performed on a quarterly basis. A composite of at least three samples per management unit (or cell if applicable) are to be analyzed for the following: TDS, pH, Na, Cl, EC, TPH, total benzene, Ba, Pb, Zn and reactive sulfides. If total benzene exceeds an action level of 0.5 ppm, the commissioner may require further assessment and testing as deemed appropriate.

e. Groundwater levels in monitor wells shall be measured monthly for a period of two years to determine seasonal fluctuation in water table. Water level shall be measured quarterly each year thereafter.

f. Groundwater from monitor wells shall be sampled quarterly to determine the impact of facility operation on groundwater. Prior to obtaining discreet representative samples, each well must be purged in accordance with EPA guidance. A composite of at least two samples per well shall be tested for the following parameters: TDS, TSS, pH, Cl, Na, EC, TPH, total benzene, As, Ba, Cr, Pb, and Zn.

g. Quarterly monitoring reports must be submitted to the Office of Conservation according to the following schedule: 1st Quarter—due March 31; 2nd Quarter—due June 30; 3rd Quarter—due September 30; 4th Quarter—due December 31. Each quarterly report must contain the following information:

i. the status of each cell at the time of the sampling event (application phase, treatment phase, inactive, etc.), the date(s) sampling took place, and a diagram indicating sample locations for each cell;

ii. the amounts and types of E&P Waste applied to each cell during the application phase, including the beginning and ending dates of application;

iii. a brief description of treatment activities undertaken to bring each cell into compliance with the criteria of this section, including the status of fluids (salts) removal from each cell;

iv. a compilation (chart) of test results for the present and past three quarterly sampling events;

- v. copies of current laboratory test data;
 - vi. the size of each land treatment cell (in acres);
 - vii. a compilation (chart) of water depth measurements of monitor well water levels calculated from the top of casing;
 - viii. a potentiometric surface map contoured with water level elevations from mean sea level.
- h. The Office of Conservation may approve an alternative monitoring program upon receipt of evidence that such procedure shall provide adequate monitoring during the active life of a facility.

3. Sampling and Testing Requirements

a. A stratified random sampling system shall be used to determine soil sampling locations in land treatment cells. All cells and monitor wells are to be sampled and tested for all parameters unless otherwise approved by the commissioner. Facilities are required to notify the Office of Conservation at least one week in advance of each quarterly sampling event in order for a representative of this office to be present.

b. Soil samples in land treatment cells shall be taken in the waste treatment zone (WTZ) and the upper treatment zone (UTZ). Over time, the depth of the treatment zone sampled may need to be increased due to solids buildup on land treatment cells. The degree of E&P Waste incorporation shall be noted at the time of sampling.

c. At least two samples must be taken from WTZ and UTZ for each acre of cell area.

d. Soil samples are to be analyzed using standard soil testing procedures as presented in the Laboratory Manual for the Analysis of E&P Waste (Department of Natural Resources, August 9, 1988, or latest revision).

e. Water samples are to be analyzed for required parameters according to acceptable EPA guidelines and/or the laboratory procedures as presented in the Laboratory Manual for the Analysis of E&P Waste (Department of Natural Resources, August 9, 1988, or latest revision).

f. The soil in an inactive cell may not be required to be tested for certain quarterly monitoring parameters only after two consecutive quarterly tests indicate compliance and upon receipt of written approval of this office.

E. Closure and Post-Closure Monitoring

1. Operators of land treatment systems shall submit closure and post-closure maintenance and monitoring programs to the Office of Conservation for approval. The monitoring program shall address sampling and testing schedules for soil in the treatment zone, water collected from the unsaturated zone monitoring system, surface runoff water, and groundwater.

2. Sampling and testing must be performed during the entire closure and post-closure periods. To certify closure of a land treatment system, water collected from the unsaturated zone monitoring system and groundwater must meet background water quality values; in addition, soils in the treatment zone and surface runoff water must meet the following criteria:

Parameter	Criteria	No. of Consecutive Samples
Soils in the Treatment Zone		
PH	6.5-9	2
TPH	# 3.0 percent	2
EC	# 10 mmhos/cm	2
TCLP Benzene	# 0.5 ppm	2
SAR	# 12	2
ESP	# 15 percent	2
Metals (ppm)		
As	# 10	2
Ba	# 100,000	2
Cd	# 10	2
Cr	# 1000	2
Cu	# 1,500	2
Pb	# 1000	2
Hg	# 10	2
Mo	# 18	2
Ni	# 420	2
Se	# 10	2
Ag	# 200	2
Zn	# 500	2
Runoff Water		
PH	6.5-9.0	4
TPH	# 15 ppm	4
TCLP Benzene	# 0.5ppm	4
EC	# 2.0 mmhos/cm	4
SAR	# 10	4
TSS	# 60 ppm	4
Chloride	500 ppm	4
Metals (ppm)		
As	# 0.2	4
Ba	# 10	4
Cd	# 0.05	4
Cr	# 0.15	4
Cu	# 1.3	4
Hg	# 0.01	4
Pb	# 0.10	4
Se	# 0.05	4
Zn	# 1.0	4

3. Post-closure monitoring shall be performed on intervals of 6 months, 1, 2 and 5 years following certification that closure is complete.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation LR 27:1912 (November 2001).

§551. Requirements for Phase Separation (Reserved)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:1915 (November 2001).

§553. Requirements for Thermal Desorption (Reserved)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:1915 (November 2001).

§555. Requirements for Cavern Disposal (Reserved)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:1916 (November 2001).

§557. Requirements for Incineration (Reserved)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:1916 (November 2001).

§559. Requirements for Solidification/Stabilization (Reserved)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:1916 (November 2001).

§561. (Reserved)

§563. (Reserved)

§565. Resource Conservation and Recovery of Exploration and Production Waste

A. In order to encourage the conservation and recovery of resources in the oilfield industry, the processing of E&P Waste into reusable materials, in addition to or beyond extraction and separation methods which reclaim raw materials such as crude oil, diesel oil, etc., is recognized as a viable alternative to other methods of disposal.

B. Commercial facilities may function for the purpose of generating reusable material only, or they may generate reusable material in conjunction with other storage, treatment or disposal operations.

C. Commercial facilities that produce reusable material are subject to all of the permitting requirements imposed on other commercial facilities. They are also subject to the same operational requirements without regard to the distinction between E&P Waste and reusable material. Existing permits may be amended to allow re-use activities at commercial facilities which acquire the capability to engage in processing for re-use. Commercial facilities which utilize extraction or separation methods to reclaim raw materials such as crude oil, diesel oil, etc. may do so without amendment of existing permits.

D. The onsite generation of reusable material by oil and gas operators, pit treating companies or other companies which do not hold a legal commercial facility permit is prohibited unless the company desiring to perform such activities complies with the requirements of this Subparagraph and submits the following information to the commissioner for approval:

1. the names, addresses, and telephone numbers of the principal officers of the company;
2. a detailed description of the process by which the company will treat pit fluids and/or solids (E&P Waste), including the types of chemicals and equipment used in the process, diagrams, test data, or other information;
3. a description of the geographical area in which the company expects to do business (i.e., statewide, north Louisiana, southwest Louisiana, etc.).

E. In addition to other applicable requirements, companies seeking to be permitted for the production of

reusable materials from E&P Waste shall have the following obligations.

1. Prior to permit approval or permit amendment approval, applicants must submit the following information:
 - a. a detailed description of the process to be employed for generation of reusable material;
 - b. type of treatment system and/or equipment to be constructed (or added);
 - c. identification of the proposed uses for the reusable material; and
 - d. a description of the proposed monitoring plan to be utilized.

2. All proposed uses of reusable material must be approved by the commissioner in writing.

3. The production of reusable material must be conducted in accordance with a monitoring plan approved by the commissioner with issue of the permit for each facility or process.

4. For purposes of regulatory authority only by the Office of Conservation and the establishment of reusable material, compliance with the testing criteria of §565.F below allows permitted companies to offer the material for the following uses:

a. daily cover in sanitary landfills which are properly permitted by state and/or local authorities. The use of reusable material in a sanitary landfill will require written approval of the Department of Environmental Quality; and

b. various types of construction material (fill) on a case-by-case basis. The commissioner may approve such use only after submission and review of an application for the intended use. Approval will be dependent upon the composition of the material and the proposed location of use. Reusable material may not be used as fill for construction purposes unless the specific use has been approved in writing by the commissioner of Conservation.

F. Testing Criteria for Reusable Material

Parameter	Limitation
Moisture Content	< 50% (by weight) or zero free moisture
pH*	6.5 - 9.0
Electrical Conductivity (EC)	8 mmhos/cm
Sodium Adsorption Ratio (SAR)	12
Exchangeable Sodium Percentage (ESP)	15%
Total Barium:	100,000 ppm
Reuse/Stockpile at Commercial Facility -	40,000 ppm
Reuse at Location other than Commercial Facility-	
Leachate Testing** for:	10.0 mg/l
TPH	500.0 mg/l
Chlorides	
TCLP Benzene	0.5 mg/l
Leachate Testing**:	
Arsenic	0.5 mg/l
Barium	10.0 mg/l
Cadmium	0.1 mg/l
Chromium	0.5 mg/l
Copper	0.5 mg/l
Lead	0.5 mg/l
Mercury	0.02 mg/l
Molybdenum	0.5 mg/l
Nickel	0.5 mg/l
Selenium	0.1 mg/l
Silver	0.5 mg/l
Zinc	5.0 mg/l
NORM	Not to exceed Applicable DEQ Criteria/Limits

* E&P Waste when chemically treated (fixated) shall, in addition to the criteria set forth be acceptable as reusable material with a pH range of 6.5 to 12 and an electrical conductivity of up to 50 mmhos/cm, provided such reusable material passes leachate testing requirements for chlorides in §565.F above and Extraction Procedure for Toxicity (EP) tests for metals in §565.F above.

** The leachate testing method for TPH, chlorides and metals is included in the *Laboratory Manual for the Analysis of E&P Waste* (Department of Natural Resources, August 9, 1988, or latest revision).

G A reuse stockpile management plan shall be included in the E&P Waste management and operations plan and as a minimum, shall include the following:

1. dust emissions controls for loading, transporting and offloading operations;
2. erosion control techniques; and
3. optimum pile height and slope.

H. The Commissioner of Conservation, the Secretary of the Department of Natural Resources, and the State of Louisiana upon issuance of a permit to a company or commercial facility under this section shall be held harmless from and indemnified for any and all liabilities arising from the operation of such facilities and use of their products, and the company shall execute such agreements as the commissioner requires for this purpose.

I. Reporting. Each company which generates reusable material must furnish the commissioner a monthly report showing the disposition of all such material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:1916 (November 2001).

§567. Closure

A. All offsite commercial facilities and transfer stations under the jurisdiction of the Office of Conservation shall be closed in a manner approved by the commissioner to insure protection of the public health, safety and welfare or the environment, surface waters, groundwater aquifers and underground sources of drinking water. A plan for closure must be developed in accordance with the requirements of the commissioner. The provisions of any amendment of this rule shall not apply to closure plans which have been previously approved by the Commissioner for inactive or abandoned sites which have not been closed.

B. Closure bond or letter of credit amounts will be reviewed each year prior to the renewal date according to the following process.

1. A detailed cost estimate for adequate closure of each permitted commercial facility and transfer station shall be prepared by a independent professional consultant and submitted to the commissioner on or before February 1 of each year.

2. The closure plan and cost estimate must include provisions or closure acceptable to the commissioner and must be designed to reflect the costs to the Office of Conservation to complete the approved closure of the facility.

3. Upon review of the cost estimate, the commissioner may increase, decrease or allow the amount of the bond or letter of credit to remain the same.

4. Documentation that the required closure bond or letter of credit has been renewed must be received by September 15 of each year or the commissioner shall initiate procedures to take possession of the funds guaranteed by the bond or letter of credit and suspend or revoke the permit

under which the facility is operated. In addition, procedures to initiate permit suspension will be initiated. Any such permit suspension will remain in effect until renewal is documented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:1917 (November 2001).

§569. Exceptions

A. The commissioner may grant an exception to any provision of this amendment upon proof of good cause. The operator must show proof that such an exception will not endanger USDW's.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:1917 (November 2001).

Philip N. Asproditos
Commissioner of Conservation

0111#051

RULE

Department of Natural Resources Office of Conservation

Statewide Order No. 29-BC Permits to Drill (LAC 43:XIX.104)

The Louisiana Office of Conservation has amended LAC 43:XIX.104 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to power delegated under the laws of the State of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950, Sections 30:4 C (1), (2), (3), (6), (8), (9), (10), (14), (16) and I. These Rules amend the financial security requirements for applicable wells requiring Permits to Drill and Amended Permits to Drill.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation

Subpart 1. Statewide Order No. 29-B

Chapter 1. General Provisions

§104. Financial Security

A. Unless otherwise provided by the statutes, rules and regulations of the Office of Conservation, financial security shall be required by the operator of record (operator) pursuant to this section for each applicable well as further set forth herein in order to ensure that such well is plugged and abandoned and associated site restoration is accomplished. A compliance order and/or civil penalty which has been timely satisfied shall not cause an operator to be considered a non-compliant operator for the purpose of this section.

1. Permit to Drill

a. On or after July 1, 2000, the applicant for a permit to drill must provide financial security for such well in accordance with the following.

i. An operator who has exhibited a record of compliance with the statutes, rules, and regulations of the Office of Conservation for a period of 48 months

immediately preceding the permit date of the well and who has no outstanding violations shall be exempt from providing financial security under this section.

ii. An operator who has not been a registered operator of record for a period of 48 months immediately preceding the permit date of the well in question shall comply with the following.

(a). An operator who has not previously been an operator of a well (drilling, drilled or completed) shall provide financial security in a form acceptable to the commissioner prior to issuance of a permit to drill.

(b). An operator who has previously been an operator of a well (drilling, drilled or completed) for less than the prescribed 48 months but has otherwise exhibited a record of compliance with the statutes, rules and regulations of the Office of Conservation and who has no outstanding violations shall provide financial security in a form acceptable to the commissioner within 30 days of completion date as reported on Form Comp or Form WH-1.

iii. An operator who has not exhibited a record of compliance with the statutes, rules, and regulations of the Office of Conservation for a period of 48 months immediately preceding the permit date of the well shall provide financial security in a form acceptable to the commissioner prior to issuance of permit to drill.

2. Amended Permit to Drill/Change of Operator

a. Any application to amend a permit to drill for change of operator must be accompanied by financial security in accordance with the following:

i. An operator who has previously been an operator of a well for a period of at least 48 months immediately preceding the amended permit to drill date, who has exhibited a record of compliance with the statutes, rules and regulations of the Office of Conservation and who has no outstanding violations shall be exempt from providing financial security under this section.

ii. Any operator who does not meet the criteria specified in 104.A.2.a.i. above shall provide financial security in a form acceptable to the commissioner prior to issuance of an amended permit to drill.

3. Financial security in a form acceptable to the commissioner shall be provided prior to issuance of a permit to drill or amended permit to drill to any operator which includes a primary officer therein who is or was a primary officer of an operator assigned an orphan status.

4. The financial security requirements provided herein shall apply to Class V wells as defined in LAC 43:XVII.103 for which an application for a permit to drill or amended permit to drill is submitted on and after July 1, 2000, at the discretion of the commissioner.

B. Compliance with this financial security requirement shall be provided by any of the following or a combination thereof:

1. certificate of deposit issued in sole favor of the Office of Conservation in a form prescribed by the commissioner from a financial institution acceptable to the commissioner. A certificate of deposit may not be withdrawn, canceled, rolled over or amended in any manner without the approval of the commissioner; or

2. a performance bond in sole favor of the Office of Conservation in a form prescribed by the commissioner

issued by an appropriate institution authorized to do business in the state of Louisiana; or

3. letter of credit in sole favor of the Office of Conservation in a form prescribed by the commissioner issued by a financial institution acceptable to the commissioner.

C. Financial Security Amount

1. Land Location

a. Individual well financial security shall be provided in accordance with the following:

Measured Depth	Amount
§3000'	\$1.00 per foot
3001 - 10000'	\$2.00 per foot
§10001'	\$3.00 per foot

b. Blanket financial security shall be provided in accordance with the following:

Total Number of Wells Per Operator	Amount
#10	\$25,000.00
11-99	\$125,000.00
§100	\$250,000.00

2. *Water Location—Inland Lakes and Bays*—any water location in the coastal zone area as defined in LSA-R.S. 49:214.27 except in a field designated as offshore by the commissioner.

a. Individual well financial security shall be provided in the amount of \$8.00 per foot of well depth.

b. Blanket financial security shall be provided in accordance with the following:

Total Number of Wells Per Operator	Amount
#10	\$125,000.00
11-99	\$625,000.00
§100	\$1,250,000.00

3. *Water Location—Offshore*—any water location in a field designated as offshore by the commissioner.

a. Individual well financial security shall be provided in the amount of \$12.00 per foot of well depth.

b. Blanket financial security shall be provided in accordance with the following:

Total Number of Wells Per Operator	Amount
#10	\$250,000.00
11-99	\$1,250,000.00
§100	\$2,500,000.00

4. An operator of land location wells and water location wells who elects to provide blanket financial security shall be subject to an amount determined by the water location requirements.

5. The amount of the financial security as specified above may be increased at the discretion of the commissioner.

D. A change of name by a compliant operator of record through acquisition, merger, or otherwise does not preclude said successor operator from meeting the requirements for exemption from financial security under this section.

E. The commissioner retains the right to utilize the financial security provided for a well in responding to an emergency applicable to said well in accordance with R.S. 30:6.1.

F. Financial security shall remain in effect until release thereof is granted by the commissioner pursuant to written request by the operator. Such release shall only be granted after plugging and abandonment and associated site restoration is completed and inspection thereof indicates compliance with applicable regulations or upon transfer of such well to an exempt operator. In the event provider of financial security becomes insolvent, operator shall provide substitute form of financial security within 30 days of notification thereof.

G. Plugging and abandonment of a well, associated site restoration, and release of financial security constitutes a rebuttable presumption of proper closure but does not relieve the operator from further claim by the commissioner should it be determined that further remedial action is required.

H. In the event that an operator has previously provided financial security pursuant to LAC 43:XIX.104, such operator shall provide increased financial security, if required to remain in compliance with this section, within 30 days after notice from the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R. S. 30:4, et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943), amended by the Department of Natural Resources, Office of Conservation LR 26:1306 (June 2000), amended LR 27:1917 (November 2001).

Philip N. Asproditis
Commissioner

0111#057

RULE

Department of Natural Resources Office of Conservation Executive Division

Fees (LAC 43:XIX.Chapter 7)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq. , the Office of Conservation has amended the established fees.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation - General Operations

Subpart 2. Statewide Order No. 29-R-01/02

Chapter 7. Fees

§701. Definitions

Application Fee Can amount payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, by industries under the jurisdiction of the Office of Conservation.

Application for Automatic Custody Transfer Can application for authority to measure and transfer custody of liquid hydrocarbons by the use of methods other than customary gauge tanks, as authorized by Statewide Order No. 29-G-1 (LAC 43:XIX.2301 et seq.), or successor regulations.

Application for Commercial Class I Injection Well—an application to construct and/or operate a commercial Class I injection well, as authorized by Statewide Order No. 29-N-1 (LAC 43:XVII.101 et seq.) or Statewide Order No. 29-N-2 (LAC 43:XVII.201 et seq.), or successor regulations.

Application for Commercial Class I Injection Well (Additional Wells) Can application to construct and/or operate additional Class I injection wells within the same filing, as authorized by Statewide Order No. 29-N-1 (LAC 43:XVII.101 et seq.) or Statewide Order No. 29-N-2 (LAC 43:XVII.201 et seq.), or successor regulations.

Application for Commercial Class II Injection Well Can application to construct and/or operate a commercial Class II injection well, as authorized by Statewide Order No. 29-B (LAC 43:XIX.401 et seq.), or successor regulations.

Application for Commercial Class II Injection Well (Additional Wells) Can application to construct and/or operate additional, commercial Class II injection wells within the same filing, as authorized by Statewide Order 29-B (LAC 43:XIX.401 et seq.), or successor regulations.

Application for Multiple Completion Can application to multiply complete a new or existing well in separate common sources of supply, as authorized by Statewide Order No. 29-C-4 (LAC 43:1301 et seq.), or successor regulations.

Application for Noncommercial Injection Well Can application to construct and/or operate a Class I, II or III, noncommercial injection well, as authorized by Statewide Order Nos. 29-B (LAC 43:XIX.401 et seq.), 29-M (LAC 43:XVII.301 et seq.), 29-N-1 (LAC 43:XVII.101 et seq.), and 29-N-2 (LAC 43:XVII.201 et seq.), or successor regulations.

Application for Permit to Drill (Minerals) Can application to drill in search of minerals, as authorized by La. R.S. 30:28.

Application for Public Hearing Can application for a public hearing as authorized by R.S. 30:1, et. seq.

Application for Substitute Unit Well Can application for a substitute unit well as authorized by Statewide Order No. 29-K-1 (LAC 43:XIX.2901 et seq.), or successor regulations.

Application for Surface Mining Development Operations Permit Can application to remove coal, lignite, or overburden for the purpose of determining coal or lignite quality or quantity or coal or lignite mining feasibility, as authorized by Statewide Order No. 29-O-1 (LAC 43:XV.101 et seq.), or successor regulations.

Application for Surface Mining Exploration Permit Can application to drill test holes or core holes for the purpose of determining the location, quantity, or quality of a coal or lignite deposit, as authorized in Statewide Order No. 29-O-1 (LAC 43:XV.101 et seq.), or successor regulations.

Application for Surface Mining Permit Can application for a permit to conduct surface coal or lignite mining and reclamation operations, as authorized by Statewide Order No. 29-O-1 (LAC 43:XV.101 et seq.), or successor regulations.

Application for Unit Termination Can application for unit termination as authorized by Statewide Order No. 29-L-2 (LAC 43:XIX.3100 et seq.), or successor regulations.

Application to Amend Permit to Drill (Injection or Other) Can application to alter, amend, or change a permit to

drill, construct, and/or operate an injection, or other well after its initial issuance, as authorized by La. R.S. 30:28.

Application to Amend Permit to Drill (Minerals) Can application to alter, amend, or change a permit to drill for minerals after its initial issuance, as authorized by La. R.S. 30:28.*

*Application to Amend Operator (transfer of ownership) for any multiply completed well which has reverted to a single completion, any non-producing well which is plugged and abandoned within the time frame directed by the Commissioner, as well as any stripper crude oil well or incapable gas well so certified by the Department of Revenue shall not be subject to the application fee provided herein.

Application to Commingle Can application for authority to commingle production of gas and/or liquid hydrocarbons and to use methods other than gauge tanks for allocation, as authorized by Statewide Order No. 29-D-1 (LAC 43:XIX.1500 et seq.), or successor regulations.

Application to Process Form R-4 Application for authorization to transport oil from a lease as authorized by Statewide Order No. 25 (LAC 43:XIX.900 et seq.), or successor regulations.

BOE Annual barrels oil equivalent. Gas production is converted to BOE by dividing annual mcf by a factor of 7.

Capable Gas Natural and casing head gas not classified as incapable gas well gas or incapable oil well gas by the Department of Revenue and Taxation.

Capable Oil Crude oil and condensate not classified as incapable oil or stripper oil by the Department of Revenue.

Class I Well A Class I injection well used to inject hazardous or nonhazardous, industrial, or municipal wastes into the subsurface, which falls within the regulatory purview of Statewide Order Nos. 29-N-1 (LAC 43:XVII.101 et seq.) or 29-N-2 (LAC 43:XVII.201 et seq.), or successor regulations.

Class I Well Fee Can annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, on Class I wells in an amount not to exceed \$400,000 for Fiscal Year 2000-2001 and thereafter.

Class II Well A Class II injection well which injects fluids which are brought to the surface in connection with conventional oil or natural gas production, for annular disposal wells, for enhanced recovery of oil or natural gas, and for storage of hydrocarbons. For purposes of administering the exemption provided in R.S. 30:21(B)(1)(c), such exemption is limited to operators who operate Class II wells serving a stripper oil well or an incapable gas well certified pursuant to R.S. 47:633 by the Severance Tax Division of the Department of Revenue and Taxation and located in the same field as such Class II well.

Class III Well A Class III injection well which injects for extraction of minerals or energy.

Emergency Clearance Emergency authorization to transport oil from lease.

Production Fee Can annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, by oil and gas operators on capable oil wells and capable gas wells based on a tiered system to establish parity on a dollar amount between the wells. The tiered system shall be established annually by rule on capable oil and capable gas production, including nonexempt wells reporting zero production during the annual base period, in an amount not to exceed \$2,250,000 for Fiscal Year 2000 - 2001 and thereafter. Incapable oil,

stripper oil, incapable gas well gas and incapable oil well gas shall be exempt from this fee.

Production Well Any well which has been permitted by and is subject to the jurisdiction of the Office of Conservation, excluding wells in the permitted and drilling in progress status, Class II injection wells, liquid storage cavity wells, commercial salt water disposal wells, Class V injection wells, wells which have been plugged and abandoned, wells which have reverted to landowner for use as a fresh water well (Statewide Order No. 29-B, LAC 43:XIX.137.G, or successor regulations), multiply completed wells reverted to a single completion, and stripper oil wells certified by the Severance Tax Division of the Department of Revenue and Taxation.

Regulatory Fee Can amount payable annually to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, on Class II wells, Class III wells, storage wells, Type A facilities, and Type B facilities in an amount not to exceed \$875,000 for Fiscal Year 2000-2001 and thereafter. No fee shall be imposed on a Class II well of an operator who is also an operator of a stripper crude oil well or incapable gas well certified pursuant to R.S. 47:633 by the severance tax division of the Department of Revenue and located in the same field as such Class II well. Operators of Record, excluding operators of wells and including, but not limited to, operators of gasoline/cycling plants, refineries, oil/gas transporters, and/or certain other activities subject to the jurisdiction of the Office of Conservation are required to pay an annual registration fee of \$105. Such payment is due within the time frame prescribed by the Office of Conservation.

Type A Facility Commercial E&P waste disposal facilities within the State that utilize technologies appropriate for the receipt, treatment, storage, or disposal of oilfield waste solids and liquids for a fee or other consideration, and fall within the regulatory purview of Statewide Order No. 29-B (LAC 43:XIX.501 et seq.), or successor regulations. Such facilities may include not more than three underground injection wells at the permitted facility.

Type B Facility Commercial E&P waste disposal facilities within the State that utilize underground injection technology for the receipt, treatment, storage, or disposal of only produced saltwater, oilfield brine, or other oilfield waste liquids for a fee or other consideration, and fall within the regulatory purview of Statewide Order No. 29-B (LAC 43:XIX.501 et seq.), or successor regulations. Such facilities may include not more than three underground injection wells at the permitted facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:542 (August 1988), amended LR 15:551 (July 1989), LR 21:1249 (November 1995), LR 24:758 (March, 1998), LR 24:2127 (November 1998), LR 25:1873 (October 1999), LR 26:1526 (July 2000), LR 26:2302 (October 2000), LR 27:1919 (November 2001).

§703. Fee Schedule for Fiscal Year 2001-2002

A. Application Fees	Amount
Application for Unit Termination	\$ 233
Application for Substitute Unit Well	\$ 233
Application for Public Hearing	\$ 700
Application for Multiple Completion	\$ 117

Application to Commingle	\$ 233
Application for Automatic Custody Transfer	\$ 233
Application for Noncommercial Injection Well	\$ 233
Application for Commercial Class I Injection Well	\$1,165
Application for Commercial Class I injection Well (Additional Wells)	\$ 582
Application for Commercial Class II Injection Well	\$ 582
Application for Commercial Class II Injection Well (Additional Wells)	\$ 290
Application for Permit to Drill - Minerals: 0' - 3,000'	\$ 117
Application for Permit to Drill - Minerals: 3,001' - 10,000'	\$ 582
Application for Permit to Drill - Minerals: 10,001' +	\$1,165
Drill Minerals Deeper (> 3,000')	\$ 465
Drill Minerals Deeper (> 10,000')	\$ 583
Application to Amend Permit to Drill - Minerals	\$ 117
Application to Amend Permit to Drill - Injection or Other	\$ 117
Application for Surface Mining Exploration Permit	\$ 60
Application for Surface Mining Development Operations Permit	\$ 87
Application for Surface Mining Permit	\$2,039
Application to Process Form R-4	\$ 34
Application to Reinstate Suspended Form R-4	\$ 60
Application for Emergency Clearance Form R-4	\$ 60

B. Regulatory Fees

1. Operators of each permitted Type A Facility are required to pay an annual Regulatory Fee of \$5,650 per facility.

2. Operators of each permitted Type B Facility are required to pay an annual Regulatory Fee of \$2,825 per facility.

3. Operators of record of permitted noncommercial Class II injection/disposal wells are required to pay \$550 per well.

4. Operators of record of permitted Class III and Storage wells are required to pay \$550 per well.

C. Class I Well Fees: Operators of permitted Class I wells are required to pay \$9,090 per well.

D. Production Fees: Operators of record of capable oil wells and capable gas wells are required to pay according to the following annual production fee tiers:

	Annual Production (Barrel Oil Equivalent)	Fee (\$ Per Well)
Tier 1	0	13
Tier 2	1 - 5,000	67
Tier 3	5,001 - 15,000	190
Tier 4	15,001 - 30,000	318
Tier 5	30,001 - 60,000	508
Tier 6	60,001 - 110,000	699
Tier 7	110,001 - 9,999,999	857

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:543 (August 1988), amended LR 15:552 (July 1989), LR 21:1250 (November 1995), LR 24:758 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:1528 (July 2000), LR 26:2304 (October 2000), LR 27:1920 (November 2001).

§705. Failure to Comply

A. Operators of operations and activities defined in §701 are required to timely comply with this Order. Failure to comply within 30 days past the due date of any required fee

payment will subject the operator to civil penalties provided in Title 30 of the Louisiana Revised Statutes of 1950, including but not limited to R.S. 30:18.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:1251 (November 1995), LR 24:759 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:1528 (July 2000), LR 26:2304 (October 2000), LR 27:1921 (November 2001).

§707. Severability and Effective Date

A. The fees set forth in §703 are hereby adopted as individual and independent rules comprising this body of rules designated as Statewide Order No. 29-R-01/02, and if any such individual fee is held to be unacceptable, pursuant to R.S. 49:968(H)(2), or held to be invalid by a court of law, then such unacceptability or invalidity shall not affect the other provisions of this order which can be given effect without the unacceptable or invalid provisions, and to that end the provisions of this order are severable.

B. This Order (Statewide Order No. 29-R-01/02) supercedes Statewide Order No. 29-R-00/01.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:21:1251 (November 1995), LR 24:759 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:1528 (July 2000), LR 26:2305 (October 2000), LR 27:1921 (November 2001).

Philip N. Asproditos
Commissioner

0111#055

RULE

**Department of Natural Resources
Office of Conservation
Injection and Mining Division**

Statewide Order 29-BC Disposal of E&P Wastes by Slurry Fracture Injection (LAC 43:XIX.433)

The Department of Natural Resources, Office of Conservation, Injection and Mining Division amends LAC 43:XIX.433.

Title 43

NATURAL RESOURCES

**Part XIX. Office of Conservation C General Operations
Subpart 1. Statewide Order No. 29-B**

Chapter 4. Pollution Control C (Class II Injection Well Regulations)

§433. Disposal of E&P Wastes by Slurry Fracture Injection

A. Applicability. The regulations in this Section shall apply to all onsite or offsite Class II injection wells which inject RCRA exempt E&P Waste at pressures which exceed the fracture pressure of the injection interval.

B. Definitions

Confining Zone C the impermeable geologic formation that is located below the base of the USDW and which directly overlies and is contiguous with the injection zone.

Containment Zone—the geologic formation or formations intended to serve as a barrier to fracture height growth, but allowed to be partially penetrated by fractures created during authorized injection. The containment zone directly overlies and is contiguous with the injection interval.

Injection Interval—the geological formation targeted to receive the injected fluids. This interval is contained within the injection zone.

Injection Zone—that group of geologic formations which extend from the bottom of the lowermost injection interval to the top of the containment zone.

Slurry Fracture Injection—a process by which solid waste is ground, if necessary, and mixed with water or another liquid. The resulting slurry is then deposited into fractures created in the receiving formation by the hydraulic force of injection.

Source Water Protection Area—the surface and subsurface area surrounding a source of drinking water (a water well, a well field, or a surface intake), supplying a public water system, through which contaminants are reasonably likely to move toward and reach the source of drinking water. The Source Water Protection Program is under the jurisdiction of the Louisiana Department of Health and Hospitals and the Louisiana Department of Environmental Quality.

Zone of Endangering Influence—a defined area around an injection well, the radius of which is the lateral distance for which the pressures in the injection interval(s) may cause the vertical migration of injection and/or formation fluid out of the injection zone.

C. Application Requirements for Slurry Fracture Injection Wells

1. Each application for approval of a new slurry fracture injection well shall be filed on Form UIC-2 SFI (or latest revision) and shall be developed under the supervision of person(s) knowledgeable in all phases of slurry fracture injection permit application preparation. The original, signed by the operator, and one copy of the application with two complete sets of attachments shall be furnished to the commissioner.

2. The application for approval of a slurry fracture injection well shall be accompanied by:

- a. a completed Form UIC-2 SFI (or latest revision);
- b. a completed Form MD-10-R (or latest revision);
- c. a map showing the disposal well for which a permit is sought, the Area of Review (AOR), and the following information:
 - i. the number or name and location of all existing producing wells, injection wells, abandoned wells, and dry holes within the AOR;
 - ii. identification of the surface owner of the land on which disposal is to be located within the AOR;
 - iii. identification of each operator with a producing leasehold within the AOR;
 - iv. surface bodies of water, mines (surface and subsurface), quarries, water wells (public and private), public water systems, and other pertinent surface features including residences and roads;
 - d. a schematic of the well showing:
 - i. the total depth, drilled out depth or plugged back depth of the well;

- ii. the depth of the top and bottom of the perforated interval;

- iii. the size of the casing, borehole and tubing, and the depth of the packer and bottom hole pressure sensor;

- iv. the depths of the tops and bottoms of the casings and the amounts, formulation, and yields of the cement slurries used to cement each string of casing;

- v. the depth of the base of the USDW;

- vi. the depths of the tops and bottoms of the injection interval, the containment zone, the injection zone, and confining zone;

- e. if the well has been drilled, a copy of the Well History and Work Resume Report (WH-1) and an electric log of the well. In the case of undrilled wells, a descriptive statement of the proposed injection interval giving its approximate depth, along with an electric log or radioactivity log of a nearby well, if available;

- f. maps and cross sections that detail the local geology and hydrology. All maps shall be constructed on a 1:2000 scale and contain a legend and a north arrow. All control points and fault cuts shall be shown on all cross sections. At a minimum, the following maps and cross sections shall be submitted:

- i. isopach maps of the injection interval or intervals, the containment zones, and the confining zone;

- ii. a structure map of the top of the injection zone and confining zone;

- iii. two structural cross sections transecting the AOR and extending from below the base of the injection zone to above the base of the USDW. The cross sections shall be at approximate right angles and extend beyond the limits of the AOR;

- iv. a regional map contoured on the base of the USDW;

- v. a map of all fault planes within the AOR;

- vi. any other information required by the commissioner;

- g. a tabulation of data on all wells that penetrate the proposed confining zone. Such data shall include a description of each well's type, construction, date drilled, location, depth, record of plugging and/or completion, and any additional information the commissioner may require;

- h. a tabulation of all freshwater wells of record within the AOR. Each freshwater well shall be identified by owner, type of well, depth and current status of the well. Include a laboratory analysis for pH, chloride (mg/l) and total dissolved solids (mg/l) of a water sample from each freshwater well. A DEQ certified laboratory must perform the require analyses. As deemed appropriate, additional test parameters may be required by the commissioner;

- i. the following proposed operating data shall be submitted as part of the operator's application:

- i. the average and maximum daily rate and volume of slurry to be injected;

- ii. the average and maximum injection pressure;

- iii. the proposed injection procedures (including storage and pre-injection treatment of the waste stream, and the well use schedule);

- j. schematic or other appropriate drawings of the surface (well head and related appurtenances) and subsurface construction details of the system;

k. construction procedures including cementing and casing program, logging procedures, deviation checks, and a drilling, testing and coring program;

l. description of the bottom hole pressure sensor required in §433.G.4, which includes installation procedures and equipment specifications;

m. detailed discussion of the logging and testing programs required in §433.H;

n. a detailed description of the monitoring program proposed in order to meet the requirements of §433.I and if applicable, §433.E.4;

o. contingency plans to cope with all shut-ins or well failures so as to prevent the migration of fluids out of the injection zone;

p. for wells within the AOR (as defined in §433.D) which penetrate the proposed confining zone, but are not properly completed or plugged, the proposed corrective action to be taken under §433.F;

q. any additional information necessary to demonstrate that injection into the proposed injection interval or intervals will not initiate fractures in the confining zone that could allow fluid movement out of the injection zone, pursuant to §433.B.1;

r. any other information required by the commissioner to evaluate the proposed well.

3. Unless the application is for a commercial slurry fracture injection well and subject to the public notice requirements of §519.A and §529, all applications for slurry fracture injection must be advertised at least once by the applicant in a format acceptable to the commissioner in the official state journal, in the official journal of the affected parish and in the journal of general circulation in the area where the proposed well is to be located, if different from the official parish journal. Interested parties shall have at least 15 days to provide comments and/or request a hearing.

4. Unless the application is for a commercial slurry fracture injection well and subject to the provisions for adequate closure in §505.C.11, all applications for slurry fracture injection wells shall contain a closure plan cost estimate in a format acceptable to the commissioner. If the well is permitted, the applicant shall provide a bond, letter of credit, certificates of deposit issued by and drawn on Louisiana banks, or any other evidence of equivalent financial security acceptable to the commissioner. The amount of financial security will be determined upon review of the closure cost estimate and will be reviewed annually.

D. Area of Review (AOR). The AOR for each slurry fracture injection well shall be the greater of the two following methods:

1. calculation of the zone of endangering influence, which is that area the radius of which is the lateral distance for which the pressures in the injection interval(s) may cause vertical migration of the injection and/or formation fluid out of the injection zone. The zone of endangering influence shall be calculated using an acceptable model designed for this purpose; or

2. a fixed radius of two miles from the injection well.

E. Geologic Criteria of the Injection and Confining Zones

1. A confining zone which is impermeable and laterally continuous throughout the injection well's AOR shall immediately overlie the containment zone. The

confining zone is to have a minimum thickness of 50 feet and be capable of preventing any upward fluid movement from the injection zone. Therefore, applicants/operators of SFI wells must provide information showing that injection into the injection zone will not initiate fracturing of the confining zone or the extension of existing fractures into the confining zone.

2. A containment zone may consist of either a single impermeable layer with a minimum thickness of 500 feet, or be comprised of alternating impermeable and permeable layers with a net thickness of impermeable strata of at least 500 feet.

3. The injection zone and confining zone shall be free of any fault planes or other geological discontinuities which could serve to transmit the injected waste out of the injection zone. The area is to be adequately mapped with sufficient controls and resolution to identify these geologic discontinuities.

4. If the AOR lacks adequate well control points to map the geologic features of the injection, containment, and confining zones, seismic surveys with acceptable interpretation shall be required encompassing an area inclusive of the AOR plus an additional one mile in order to acquire the necessary information needed to verify that injected waste will not migrate out of the injection zone. If seismic data is inadequate for this purpose, the commissioner shall require the operator to implement a suitable monitoring program capable of tracking the lateral and vertical extension of fractures caused by injection and to detect possible movement of fluids out of the containment zone. Such monitoring programs may incorporate the use of monitor wells, surface and subsurface tiltmeters, microseismic monitoring techniques, logging programs, or other technologies suitable for this purpose and which are acceptable to the commissioner.

F. Corrective Action. Applicants shall identify all known wells within the injection well's AOR which penetrate the confining zone. For wells which are improperly sealed, completed, or abandoned, the applicant shall also submit a plan consisting of such steps or modifications as are necessary to prevent the movement of fluid out of the injection zone ("corrective action"). Where the plan is adequate, the commissioner shall incorporate it into the permit as a condition. Where the commissioner's review of an application indicates that the applicant's plan is inadequate, the commissioner shall require the applicant to revise the plan, prescribe a plan for corrective action as part of the permit, or deny the application. No owner or operator of a well may begin injection until all required corrective action has been taken.

G Construction Requirements

1. Siting. All slurry fracture injection wells shall be sited in such a fashion that they inject into a formation which is beneath the lower most formation containing a USDW within a two mile radius of the well bore and meets the geologic criteria of the injection zone and confining zone prescribed in §433.E above. Location of a slurry fracture injection well so that its AOR extends into a Source Water Protection Area is prohibited.

2. Casing and Cementing. All slurry fracture injection wells shall be cased and cemented in accordance with the following criteria:

a. The operator shall install casing necessary to withstand collapse, bursting, tensile, and other stresses and shall be cemented in a manner which will anchor and support the casing. Safety factors in casing program design shall be of sufficient magnitude to provide optimum well control while drilling and to assure safe operations for the life of the well. New pipe or used pipe reconditioned and tested to assure that it will meet or exceed American Petroleum Institute (API) standards for new pipe shall be used in all casing strings.

b. Surface casing and long string casing strings shall be centralized by means of a sufficient number of centralizers spaced in a manner as to provide proper centralization of the casing string in the borehole prior to cementing.

c. Surface casing shall be set a minimum of one hundred feet below the base of the USDW and cemented to surface. Cemented to surface shall be considered in this section as having actual cement returns noted at the surface. If cement returns are not observed, the operator shall contact the Injection and Mining Division and obtain approval for the procedures to be used to perform any required additional cementing operations.

d. Cement shall be allowed to stand a minimum of 12 hours under pressure before initiating pressure test or drilling plug. Under pressure is complied with if one float valve is used or if pressure is held otherwise.

e. A minimum of 12 hours prior notification shall be given to the appropriate Injection and Mining Division Conservation Enforcement Agent for the purpose of witnessing all required casing pressure tests. If the Conservation Enforcement Agent fails to appear within the 12-hour notification period, the operator may proceed with the pressure test and file an affidavit of casing test (Form Csg-T) with the Injection and Mining Division within 20 days of reaching total depth.

f. Surface casing shall be tested at a surface pressure not less than the test pressure required in §109.B (or successor regulations). If at the end of 30 minutes the pressure gauge shows a drop in excess of 5 percent of test pressure, the operator shall be required to take such corrective measures as will ensure that such surface casing will hold said pressure for 30 minutes without a drop of more than 5 percent of the test pressure.

g. Long string casing shall be set through the injection zone and cemented at least to the top of the confining zone.

3. All slurry fracture injection wells shall be equipped with injection tubing and a packer. The packer shall be set in the long string casing no higher than 150 feet above the perforated interval.

4. The well shall be equipped with a down-hole sensor that directly measures the fluid pressure at depth no higher than 50 feet above the packer setting depth. The pressure sensor must be connected to a device at the surface which will enable a continuous recording of the well's bottom hole pressure information in digital format.

H. Logging and Testing Requirements. In addition to conformance with the logging and testing criteria contained in LAC 43:XIX.419.A or successor regulations, slurry fracture injection wells shall meet the following logging and testing requirements:

1. Open Hole Logging Requirements: A neutron/density porosity log of the injection and confining zone is required. An induction log shall be run to determine salinity levels. A spectral gamma ray log shall be run to determine baseline lithology of the subsurface prior to injection. All logs are to be run from surface to at least 50 feet below the injection zone.

2. Acoustic Logging Requirements: On a well that is to be completed with the intent for it to be used for slurry fracture injection, acoustic logs shall be required. An open hole acoustic log showing acoustic porosity and formation travel time shall be run from the surface to at least 50 feet below the injection zone. A synthetic seismogram is required to be submitted in order to predict fracture parameters and as a link to subsequent seismic interpretation (time based or four dimensional). VSP (Vertical Seismic Profiling) shall be run for lateral effect. Acoustic data may be run in various formats to identify reservoir and fracture parameters and to show containment of the waste stream within the containment and injection zones. The various formats may be surface-to-surface, well to surface, cross well, 2-dimensional, 3-dimensional and 4-dimensional data. All monitor wells shall be used for lateral offset of the VSP and the depth of investigation must match the dimensions of the disposal domain. Acoustic data must be obtained pre-injection, during injection and post-injection (after disposal operations cease and prior to plugging and abandoning the well) in order to show long term containment.

3. Cement Bond Logging Requirements

a. At the time of the initial completion, after long-string casing (to below the injection zone) has been set and cemented, a suitable, interpretable cement quality (bond) log shall be run. In an existing well, the tubing must be pulled and a suitable cement quality log run prior to permit approval. The log is to be run from surface to 50 feet below the base of the injection zone. The log must define both vertical and lateral cement quality.

b. The log is to have sufficient vertical, horizontal and radial resolution to identify the location of cement channels, micro-channels, bonding index, gas cut cement, voids or any other cement/bond problem that may exist. The log must show transit time, amplitude, variable density and radial bond quality (from interpretation). Log quality control must show cement type, additives, setting time and compressive strength (used in variable density log generation), proper tool centering, proper casing centering and sufficient cement sheath thickness, borehole fluids type, density, viscosity, pressure and temperature. In deviated wellbores, for adequate interpretation, effective tool centering must be seen. Matching casing size and weight must be correct on all interpretations. Where possible, the log must be correlated to shape and rugosity of the borehole (from open hole caliper and porosity/lithology logs). The log must also show line weight, line speed, casing collar locator and gamma ray for depth correlation.

c. A repeat section, showing good repeatability, must be run from the base of the injection zone to the base of the confining zone. Wellsite and shop tool calibrations are to be included on all logs.

4. A temperature and gamma ray base log shall be run prior to the initiation of any fractures. Subsequent

radioactive tracer or temperature logs are to be run using a method approved by the Injection and Mining Division.

5. The operator shall conduct a step rate/pressure falloff test on the injection well prior to the initiation of injection operations in order to establish the initial fracture closure and extension pressures of the injection interval.

6. A pressure falloff test shall be performed on the well prior to the initiation of any fracturing in order to establish the reservoir transmissivity. The Injection and Mining Division shall be consulted on the procedure for running this test.

7. An extended falloff shall be conducted at least once every 7-day cyclic injection period. The falloff period shall be maintained until the measured pressure has essentially stabilized.

8. The logging requirements for existing wells converted to slurry fracture injection are the same as those required for newly drilled wells.

9. Any other well logs or tests required by the commissioner.

I. Monitoring Requirements

1. A monitoring program that ensures that the injection activity does not cause the migration of fluids above the confining zone shall be approved by the commissioner. This monitoring program may be inclusive of or in addition to the monitoring program required in §433.E.4.

2. All approved monitoring programs shall include the continuous monitoring and recording of bottom hole pressures, injection rates, the tubing and casing annulus pressure, injected fluid density and the cumulative volume of waste injected using a method approved by the commissioner. The origination, type and components of all injected waste streams are to be recorded and made available when requested.

3. The operator shall analyze the bottom hole pressure data daily to ensure that the pressure in the injection interval is not becoming abnormally pressurized as a result of injection. Also, abnormal extrapolated pressures (net losses) that cannot be associated with the injection volumes must be investigated immediately to ensure that fluids are not migrating out of the injection zone. Depending on the injected volumes, the formation pressure log must be history matched to predicted pressures.

4. Fracture height and length shall be evaluated by the operator on a minimum three month rotation, or as directed by the commissioner, utilizing a method approved by the commissioner.

5. The operator shall conduct periodic step-rate tests at least every three months. The commissioner may require more frequent step-rate tests in order to evaluate changes in formation parting pressures and in-situ stress conditions.

6. A cement bond log having the same presentation as the initial cement bond log shall be run annually to evaluate the effects of the previous years injection on the cement column. If it is evident that the cement bonding is losing integrity, injection will be prohibited until such time the integrity of the cement column is restored.

J. Operational Requirements

1. Based on the results of the step rate/pressure falloff test outlined in §433.H.5 above, the maximum and minimum injection pressures and corresponding injection rates will be

determined. Using the fracture extension pressure derived from the step rate test, the minimum allowed bottom hole injection pressure shall be assigned a value of 150 psi below the extension pressure. The maximum allowed bottom hole injection pressure shall be no greater than 75 percent of the burst pressure of the casing.

2. The initial maximum authorized injection rate (at the start up of operations) shall be limited to no more than 20 percent over the rate required to maintain fracture extension pressure. However, if the operator can demonstrate conclusively that a higher injection rate will not cause excessive fracture growth, a higher injection rate may be authorized by the commissioner. If an increase in injection rate is authorized, the maximum and minimum bottom hole injection pressures shall be adjusted accordingly.

3. If at any time the bottom hole injection pressure or injection rate varies from the authorized range, the operator shall immediately cease injection and notify the Injection and Mining Division.

4. Should any of the periodic step rate/pressure fall off tests indicate a change in parting pressures or fracture extension pressures has occurred, the commissioner shall have to option to amend the well's minimum and maximum bottom hole injection pressures and maximum allowed injection rate or to require that the well cease injection until such time that the operator has proven that fluids are not migrating above the containment zone.

5. If monitoring indicates possible communication between the tubing and the tubing and casing annulus, the operator shall immediately cease injection and notify the Injection and Mining Division. Injection may not commence until the mechanical integrity of the well is restored and verified by the Injection and Mining Division.

6. Injection is to be conducted on a cyclic basis with the injection occurring only during daylight hours.

7. If in the commissioner's determination, over-pressurization of the reservoir may cause the movement of fluid out of the injection zone, the commissioner shall suspend or revoke the well's permit to inject. Also, if the average reservoir pressure is subjected to any net decrease in pressure, the commissioner may suspend the well's permit until such threat is resolved.

K. Reporting Requirements

1. The operator shall maintain daily records for the following:

- a. the bottom hole pressure at the start of injection;
- b. the minimum and maximum injection pressures;
- c. the injection rates at 1 hour intervals;
- d. the composition of injected waste stream (random sampling) on a daily or batch basis;
- e. the densities and viscosities of the waste stream at 1 hour intervals of injection;
- f. the minimum and maximum pressures on the casing and tubing annulus.

2. In addition, the operator shall provide an explanation for any discrepancies in the bottomhole or surface pressures, densities, viscosities and injection rates in a comments column. If an acceptable explanation for any discrepancy in this data is not provided, the commissioner may suspend the well's permit to inject until the operator provides this information.

3. This information, in addition to that required under §433.I.2 above, shall be maintained as a permanent record in the operator's files and shall be provided to the Injection and Mining Division upon request.

4. The operator shall provide to the Injection Mining Division weekly summary reports of:

- a. the minimum and maximum pressures recorded during injection;
- b. the minimum and maximum pressures recorded during falloffs;
- c. the minimum and maximum pressures on the casing and tubing annulus;
- d. the daily and weekly injected volumes;
- e. the average density and viscosity of injected waste stream.

5. The operator shall provide the Injection and Mining Division each by no later than the third working day of each week the results of an analysis of all extended falloff periods occurring during the previous week's reporting period. Each analysis report shall include a log-log derivative plot of the falloff period with the different flow regimes identified thereon. A comprehensive analysis of the linear and radial flow regimes is required if present. A summary of the properties of the injected fluids used in the analysis and the injection rates observed during each injection period must be included in the report, in addition to any other information which may be pertinent to the results of the falloff analysis.

6. The operator shall provide a diskette or compact disk of the well's continuous bottom hole pressure and rate data for the reporting period in a format specified by the commissioner.

7. In addition, the operator shall provide an explanation for any discrepancies in the bottomhole or surface pressures, densities, viscosities and injection rates in a comments column of the report. If an acceptable explanation for any discrepancy in this data is not provided, the commissioner may suspend the well's permit to inject until the operator provides this information.

8. All records required in this section shall be maintained by the operator for the life of the well and shall be made available for review or submitted to the Office of Conservation upon request.

L. Permitting Requirements

1. Applicants and applications for slurry fracture injection wells must comply with the applicable public notice requirements of this Chapter.

2. Applications for slurry fracture injection of E&P Waste shall comply with the following two-part permitting procedures:

a. **Part IC Permit to Construct**

i. The initial application shall be reviewed for completeness, processed and upon meeting the permit requirements, a "Permit to Construct" shall be issued.

ii. "Permit to Construct" shall become null and void one year from the date of issuance.

iii. The commissioner may grant a one year extension from mitigating circumstances.

b. **Part IIC Permit to Inject**

i. Upon completion of construction, the documentation required by the "Permit to Construct" shall be submitted to the Office of Conservation.

ii. If the submitted documentation indicates compliance with the "Permit to Construct" and that the well has been constructed as permitted and indicated in the application, a "Permit to Inject" shall be issued.

3. Slurry fracture injection wells permitted under the authority of this Section must comply with the applicable general requirements, public notice requirements, work permit requirements, legal permit conditions, permit transfer requirements, mechanical integrity pressure testing requirements, confinement of fluid requirements, and plugging and abandonment requirements of LAC 43:XIX.Chapter 4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943), promulgated by the Department of Natural Resources, Office of Conservation, LR: 27:1921 (November 2001).

Philip N. Asprodites
Commissioner of Conservation

0111#050

RULE

**Department of Public Safety and Corrections
Gaming Control Board**

Landbased Casino Gambling Surveillance
(LAC 42:IX.3305)

The Louisiana Gaming Control Board has repromulgated LAC 42:IX.3305 in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

Title 42

LOUISIANA GAMING

Part IX. Landbased Casino Gaming

Chapter 33. Surveillance

**§3305. Surveillance Room and Gaming Board's
Controlled Space Requirements**

A. - B. ...

C. Employees of the Casino Operator or Casino Manager assigned to monitoring duties in the Surveillance Room shall have no other gaming related duties for the Casino Operator or Casino Manager.

D. - F. ...

G. Consistent with Sections 7.2 and 9.26 of the Casino Operating Contract, the Gaming Board's Controlled Space shall be furnished with all necessary furniture and fixtures as specified by the division and be equipped with a security radio, house telephone and shall house a dedicated computer which provides computer accessibility for division agents to review, monitor and record data with the same functionality and specifications as provided in §4205 of these Regulations.

H. Except in the event of circumstances beyond the reasonable control of the Casino Operator or Casino Manager or unless authorized by the division, the Surveillance Room shall be manned at all times by a sufficient number of approved surveillance operators as determined by the division. The division may require additional surveillance personnel should it be determined that an inadequacy of surveillance monitoring exists.

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 25:1969 (October 1999), amended LR 27:1926 (November 2001).

Hillary J. Crain
Chairman

0111#027

RULE

Department of Public Safety and Corrections Office of Motor Vehicles

Public Tag Agents (LAC 55:III.1555, 1557, 1569, 1573,1575 and 1577)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority contained in R.S. 47:532.1, the Louisiana Department of Public Safety and Corrections, Office of Motor Vehicles, amends existing rules, and adopts new rules relative to the issuing of Class "D" and "E" driver's licenses by public tag agents. The amendments and new rules permit an approved public tag agent to conduct the knowledge and skills test required by an applicant for a Louisiana driver's license. These rules permit an approved public tag agent to issue a driver's license to an applicant who successfully completes the approved testing.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 15. Services Provided by Persons and

Business Entities

Subchapter B. Public Tag Agents

§1555. Convenience Fee

A. Public tag agents may collect a convenience in addition to any other fee or tax collected when processing a transaction for the Department. The convenience fee shall not exceed \$10, and shall be retained by the public tag agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE; Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:2415 (December 1999), amended LR 27:1927 (November 2001).

§1557. Administrative Action

A.1. The Assistant Secretary or his designee may suspend, revoke, cancel, or terminate the public tag agent's contract upon a violation by the agent or any agent's officers, directors, employees, owners, or other representatives of any responsibility or requirement established pursuant to the contractual agreement. LAC 55:III.Chapter 15.Subchapter B, or RS. 47:532.1. In lieu of any of the previously listed actions, the Deputy Secretary may take other administrative action for such a violation including but not limited to the imposition of a fine or other sanction.

2. Additionally, the Assistant Secretary or his designee may suspend, revoke, cancel, or terminate the status of any person who is an employee, officer, director, or other representative of the public tag agent upon a violation of any responsibility or requirement established pursuant to the contractual agreement. LAC 55:III.Chapter 15. Subchapter B, or R.S. 47:532.1. It shall be the responsibility of the

public tag agent to insure that all employees, officers, directors, or other representatives of the public tag agent are familiar with these responsibilities and requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:2415 (December 1999), amended LR 27:1927 (November 2001).

§1569. Contracts

A. ...

B. The contract between the Department and the public tag agent shall be on the form approved by the Assistant Secretary. The Department may require that a public tag agent sign separate contracts to perform the following functions:

1. processing title work and issuing of registration certificates and permanent license plates;
2. conducting testing for, and in the issuance of, class "D" and "E" driver's licenses;
3. processing the filing of electronic liens;
4. processing the reinstatement of driver's licenses and providing status information.

C. The contract between the Department and the public tag agent shall have a term of one year. The Department may provide for automatic renewals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE; Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:2417 (December 1999), amended LR 27:1927 (November 2001).

§1573. Confidentiality

A. The public tag agent, its employees, representatives, and agents shall maintain the confidentiality of all records and information received or processed in connection with any function performed pursuant to a contract with the Department.

B. The public tag agent shall forward all request for information commonly referred to as public records request to the Department for a response.

C. The public tag agent shall be responsible for the disclosure of any information in connection with the processing of any transaction on behalf of the Department. The public tag agent shall comply with all applicable federal and state laws regarding the disclosure of information, including but not limited to 18 U.S.C. §2721 et seq., and 42 U.S.C. §405(c)(2)(C).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE; Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 27:1927 (November 2001).

§1575. Driver's License Issuance

A. A public tag agent may contract with the Department to administer the necessary tests and issue Class AD@ and AE@ driver's licenses. The written knowledge test and the driving or skills test shall be administered in accordance with the provisions of LAC, Title 55, Part III, Chapter 1, Subchapter C.

B. The public tag agent's Third Party Examiner shall utilize only Department approved visual screening equipment. In lieu thereof, each examiner may opt to utilize the standard Snellen wall-chart for visual acuity. The visual

acuity testing shall be administered in manner approved by the Department

C. A public tag agent shall develop controls to secure the materials and equipment necessary to issue driver's licenses. Such controls shall be submitted in writing to the Department. A public tag agent shall not issue any driver's licenses until the controls required by this section have been approved by the Department in writing. Once approved, the controls shall be implemented as written. Any changes to the control approved by the Department shall be approved in writing prior to implementation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE; Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 27:1927 (November 2001).

§1577. Other Transactions

A. The Department may contract with public tag agents to perform other transactions authorized in R.S. 47:532.1. In such case, the public tag agent shall use the equipment and procedures required by the Department to process these transactions. The public tag agent shall use an approved written control plan to secure any materials or equipment as directed by the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 27:1928 (November 2001).

Jerry Jones
Undersecretary

0111#033

RULE

Department of Public Safety and Corrections Office of Motor Vehicles

Third Party Knowledge and
Skills Testing for Class "D" and "E"
(LAC 55:III.185 and 187)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority contained in R.S. 32:408, the Louisiana Department of Public Safety and Corrections, Office of Motor Vehicles, adopts new rules relative to the administration of knowledge and skills test by third parties to applicants for Class "D" and "E" driver's licenses. The new rules would permit approved third parties to conduct the knowledge and skills test required of an applicant for a Louisiana driver's license.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 1. Driver's License

Subchapter C. Third Party Knowledge and Skills Testing for Class "D" and "E"

§185. Eligibility, Application, Contract

A. All persons seeking to contract with the Department to administer the written knowledge test and the driving or skills test pursuant to R.S. 32:408 shall meet the following requirements:

1. successfully complete an OMV sanctioned examiners course;

2. have attained the age of 21 years;

3. have a high school diploma or its equivalent;

4. have a valid driver's license issued by the Department for the class of vehicle for which the applicant will administer the written knowledge test and the driving or skills test;

5. no third party examiner shall have been convicted of any felony or misdemeanor which would reflect unfavorably himself, or his employer or the State of Louisiana. Such offenses would include, but are not limited to any offense which has as an element, fraud, deceit, theft, false swearing, making false statement, or injuring public records, or any traffic offense requiring the suspension of a driver's license.

B. Any person seeking to contract with the Department to administer the written knowledge and driving or skills test shall submit an application on an approved form attaching all documents and information required by R.S. 32:408 and LAC 55, Part III, Chapter 1, Subchapter C.

C. All contracts shall have a term of one year from the effective date of the contract.

D. As with any contract, contracts conferred pursuant to LAC 55, Part III, Chapter 1, Subchapter C, are renewable at the discretion of the Department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 27:1928 (November 2001).

§187. Compliance

A. All third party examiners must comply with and abide by all applicable statutes and regulations as well all terms of the contract executed by the third party tester or third party examiner and the Department.

B. A third party tester and a third party examiner shall not commence administering the written knowledge test or the skills or driving test until authorized to do so by the Department.

C. If at any time, a third party tester or a third party examiner ceases to meet any requirement imposed by statute, the regulations, or the contract, the third party tester or the third party examiner shall immediately cease all testing authorized in the contract.

D. All third party examiners shall grant to any authorized personnel of the Department of Public Safety and Corrections the right to conduct random examinations, inspections, or audits of the records, premises, and equipment of the third party tester and the third party examiner without prior notice during business hours for compliance. Personnel of the Department of Public Safety and Corrections shall at least annually take the tests actually administered by third party examiners as if the employee were a test applicant, or the department shall at least annually test a sample of drivers who were examined by the third party examiner to compare pass/fail results.

E. The Third Party Tester and the Third Party Examiners shall utilize only forms, visual testing devices, computer/printer equipment, image capture equipment approved by the Department of Public Safety and Corrections, Office of Motor Vehicles.

F. The Third Party Tester and the Third Party Examiners shall maintain at its place of business a record of each applicant for whom a third party examiner has conducted an application, written test, visual examination, and the driving or skills test for a minimum of five years. Each such record shall include:

1. the applicant's name;
2. date of birth;
3. social security number (if the applicant has been issued a social security number);
4. the date each test was administered;
5. the score obtained by the applicant;
6. the score sheets for each test conducted;
7. the name and address and certificate number of the Third-Party Examiner administering said tests; and
8. the make/model/license plate number of any vehicle used to conduct the testing.

G. The Third Party Tester shall maintain at each place of business for a minimum of five years, a record of each certified third party examiner in the employ of the Third Party Tester to include:

1. a copy of the examiner's certificate issued by the State of Louisiana, Department of Public Safety;
2. a copy of the examiner's driving record, updated annually from the date of employment;
3. evidence of payroll employment status of the examiner;
4. copies of all third party examiner records, including the tests administered by the examiner.

H. All third party examiners shall submit to and receive approval from the Department of Public Safety and Corrections, Office of Motor Vehicles of a test route for use in the administration of skills testing to driver applicants for each location approved by the Department.

I. Third Party Testers and Third party examiners shall not to charge a driver/applicant a fee for the administering of the written knowledge and driving or skills test in excess of \$30.00.

J. Third Party Testers and Third Party Examiners shall post in a conspicuous place within its premises the certificate authorizing the Third Party Examiner to administer the written knowledge and driving or skills test.

K. Each Third Party Tester and Third Party Examiner shall utilize a Department-approved written test, through approved computer linking, to ensure all written tests are electronically controlled and all results are electronically recorded through the Department database.

L. In the administration of the driving or skills examination, each third party examiner shall measure the performance of the applicant in each of the following operational skills: observing, communicating, speed adjustment, vehicle positioning, time and space judgment, and hazard perception. In addition, each driving course layout shall include the following driving maneuvers, as a minimum, for scoring purposes:

1. two stop signs (one with obstructed view, if possible);
2. two traffic lights;
3. two lane changes;
4. two intersections, without turn;
5. two reversal procedures. Options:
 - a. into a parking spot and out of the parking spot; or

b. three point turn.

6. three left turns, one of which includes a left turn onto a multiple-lane roadway;

7. three right turns, one of which includes a right turn onto a multiple-lane roadway;

8. one quick stop;

9. one parking maneuver.

M. The scoring criteria shall be standardized, as determined and approved by the Department.

N. Third Party Testers and Third Party Examiners shall maintain a minimum limit of combined liability insurance coverage of \$1,000,000 per person with a minimum liability limit of \$2,000,000 per accident in connection with the administration of the driving or skills test. Third Party Testers and Third Party Examiners shall also maintain a minimum general liability policy of \$1,000,000. These policies shall provide primary coverage to the State of Louisiana, the Department, and the Department's employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 27:1928 (November 2001).

Jerry Jones
Undersecretary

0111#034

RULE

Department of Public Safety and Corrections Office of State Police

Breath and Blood Analysis Methods and Techniques (LAC 55:I.Chapter 5)

In accordance with the provisions of R.S.32:663, et seq. relative to the authority of the Office of State Police to promulgate and enforce rules, the Office of State Police has amended the following rules.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 5. Breath and Blood Alcohol Analysis Methods and Techniques

Subchapter A. Analysis of Breath

§503. Operator Qualification

A. Qualifications for the certification of individuals to conduct breath analysis are as follows:

1. employee of a Louisiana or federal law enforcement agency;
2. resident of the state of Louisiana at the time of application, and at least 18 years of age;
3. graduation from a state-accredited high school or satisfactory passing of the General Education Development (GED) test or an equivalent educational background;
4. a score of 75 percent or better on a 16-hour operator's training course conducted by the Applied Technology Unit or any other course approved by the Applied Technology Unit. Course material to be covered will be taken from the *Chemical Test for Intoxication Training Manual* and/or the *Training Manual for the Intoxilyzer 5000*. However, if an individual has already

successfully completed a training course in chemical testing the individual may attend a specified course in the operation of the Intoxilyzer 5000. To successfully complete the 16-hour training course and be certified to conduct breath analysis, the individual must:

- a. obtain a 75 percent score on the written examination covering course material;
- b. obtain a 75 percent score on the actual operation of the instrument and practical examination (running of an unknown alcohol solution). Both the written and the practical examination will be made up by the instructors of the Applied Technology Unit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 4:390 (October 1978), amended LR 6:660 (November 1980), amended by the Department of Public Safety and Corrections, Office of State Police, LR 11:256 (March 1985), LR 14:362 (June 1988), repromulgated LR 14:442 (July 1988), amended LR 17:672 (July 1991), repromulgated LR 17:796 (August 1991), amended LR 27:1929 (November 2001).

§505. Instructor Qualification

A. Qualification for certification of individuals as instructors shall be as follows:

1. certified as an operator on the approved instrument by the Applied Technology Unit;
2. attendance of an additional 16-hour course approved by the Applied Technology Unit;
3. involved in a chemical testing program approved by the Applied Technology Unit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 4:390 (October 1978), amended LR 6:660 (November 1980), amended by the Department of Public Safety and Corrections, Office of State Police, LR 11:256 (March 1985), LR 14:362 (June 1988), repromulgated LR 14:442 (July 1988), amended LR 17:673 (July 1991), repromulgated LR 17:796 (August 1991), amended LR 27:1930 (November 2001).

§507. Qualification of Individuals for Instrument Maintenance and Inspection

A. Qualification of individuals to perform maintenance and inspection on the approved instrument shall be as follows:

1. employee of the Office of State Police, Applied Technology Unit in the capacity of applied technology director, breath analysis supervisor, breath analysis instructor specialist, applied technology specialist, or breath analysis specialist. In order to be employed in the capacity of applied technology director, breath analysis supervisor, breath analysis instructor specialist, applied technology specialist, or breath analysis specialist, the employee must have met all of the requirements as stated by the Department of Civil Service pertaining to the classification of applied technology director, breath analysis supervisor, breath analysis instructor specialist or applied technology specialist;
2. graduation from a state-accredited high school or the satisfactory passing of the General Education Development (GED) test or an equivalent educational background;
3. successful completion of a 16-hour operator's training course;
4. successful completion of a course on maintenance conducted by the manufacturer of the approved instrument

used in blood/breath alcohol testing whereby the individual has received a satisfactory certificate stating such;

5. complete six months on-the-job training whereby the individual shall undergo instructions on the following, but not limited to:

- a. calibration of the instrument;
- b. checking calibration of the instrument;
- c. trouble-shooting of the instrument;
- d. performance of preventive and regular maintenance;
- e. preparation and use of any wet bath simulator and solutions used in the calibration and calibration check;
- f. inspection of the instrument received from the manufacturer to insure proper assembly calibration and the overall proper functioning of the instrument.

B. After the individual has completed on-the-job training and qualified on the above specification, then and only then may he be certified to perform maintenance and inspection on the approved blood/breath alcohol testing instrument. The individual will then be certified by the Louisiana Department of Public Safety and Corrections and issued a permit stating such. This permit shall then be prima facie evidence of the individual's qualification to perform such maintenance.

C. The maintenance and/or repair work shall be performed by applied technology director, breath analysis supervisor, or breath analysis specialist, breath analysis instructor specialist, or applied technology specialist of the Applied Technology Unit, who are certified by the Louisiana Department of Public Safety and Corrections to perform such. The instrument recertification form that is filed with the clerks of the respective courts every four months shall also have the inspecting applied technology director, breath analysis supervisor, or breath analysis specialist, breath analysis instructor specialist or applied technology specialist permit number affixed to this certificate. This permit number shall be proof as to the certification of the inspecting applied technology director, breath analysis supervisor, or breath analysis specialist, breath analysis instructor specialist or applied technology specialist by the Louisiana Department of Public Safety and Corrections.

D. The procedure used by applied technology director, breath analysis supervisor, or breath analysis specialist, breath analysis instructor specialist, or applied technology specialist in the inspections of the instrument at least every four months for the checking of the calibration shall be as follows.

1. A Model Mark II-A wet bath breath alcohol simulator manufactured by Smith and Wesson, Model 134C, and Model 10-4 manufactured by Guth Manufacturing Company, will be used or any other wet bath simulator approved by the United States Department of Transportation.
2. Use of this simulator and preparation of the contents shall be performed according to the instructions as per the manufacturer of the simulator's operating manual.
3. Solutions used in the simulators may also be produced by using a certified stock solution.
4. Once the simulator is made the known alcohol value may be determined by the use of a gas chromatograph or any other approved instrument and this will be the "known alcohol value." Calibration check of the instrument

shall be within plus or minus 0.010 grams percent of the established "known alcohol value."

5. After the inspections are made by the applied technology director, breath analysis supervisor, or breath analysis specialist, breath analysis instructor specialist, or applied technology specialist, and all items are performed according to the maintenance section as listed under the instrument, the inspecting applied technology director, breath analysis supervisor, or breath analysis specialist, breath analysis instructor specialist or applied technology specialist will then certify that the instrument was in proper working order.

6. Records, or a copy covering maintenance, etc., on the instrument will be kept by the Applied Technology Unit.

E. Personnel of the Applied Technology Unit shall have the authority to instruct individuals as breath/alcohol testing field supervisors. These individuals will be able to perform minor service, repair and transport the instrument to various locations, run known alcohol solutions, testify in court, monitor the chemical testing program on a local level and confer with the Applied Technology Unit on any related matters pertaining to chemical testing. These individuals will have attended an additional training course whereby they have undergone instructions to perform their outlined duties. These individuals' permits shall state their authority to conduct such duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 4:390 (October 1978), amended LR 6:660 (November 1980), amended by the Department of Public Safety and Corrections, Office of State Police, LR 11:256 (March 1985), LR 14:362 (June 1988), repromulgated LR 14:442 (July 1988), amended LR 17:674 (July 1991), repromulgated LR 17:796 (August 1991), amended LR 27:1930 (November 2001).

§509. Permits

A. Upon determining the qualification of individuals to perform such analysis and duties, and after submitting an application for certification, the Louisiana Department of Public Safety and Corrections shall issue permits which shall be effective for the following periods with respect to classification.

1. Operator's Certification

a. Operators shall be certified for a period of two years following successful completion of the 16-hour operator's training course. These permits may be renewed after a refresher course given by the Applied Technology Unit or any other agency approved by the Applied Technology Unit.

b. In addition to being certified on any instrument currently approved by the Applied Technology Unit, an operator may also attend a specified course for certification on any new instrument that may be approved by the Applied Technology Unit. These permits shall also be in effect for a period of two years.

2. Breath Alcohol Testing Field Supervisors. Breath alcohol testing field supervisors shall be certified for a period of two years.

3. Instructors. Instructors shall be certified for a period of five years. However, once he is no longer involved in a chemical testing program, his certification shall terminate and then only be recertified after he has once again become involved in a chemical testing program and

demonstrated his knowledge of instructions to the applied technology director.

4. Maintenance. Once an applied technology director, breath analysis supervisor, breath analysis instructor specialist, or applied technology specialist is initially certified, his permit shall remain effective for the duration of his employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 4:390 (October 1978), amended LR 6:660 (November 1980), amended by the Department of Public Safety and Corrections, Office of State Police, LR 11:256 (March 1985), LR 14:363 (June 1988), repromulgated LR 14:443 (July 1988), amended LR 17:674 (July 1991), repromulgated LR 17:797 (August 1991), amended LR 27:1931 (November 2001).

Jerry Jones
Undersecretary

0111#042

RULE

Department of Revenue Office of Alcohol and Tobacco Control

Adulterated Beverages C Truth in Labeling (LAC 55:VII.303)

Under the authority of R.S. 26:150(A) and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, has amended LAC 55:VII.303 to reflect the statutory revisions of Revised Statutes Title 26 statute numbers, and to provide for the truth in labeling and consumer information by requiring disclosure of trademarked alcohol brand names contained in certain frozen drinks and to require proper signage to be affixed to alcohol dispensing machines.

Title 55

PUBLIC SAFETY

Part VII. Alcohol and Tobacco Control

Chapter 3. Liquor Credit Regulations

§303. Regulation IIC Adulterated Beverages

A. As set forth in R.S. 26:150(B)(3), no dealer shall adulterate, water, or in any manner change the original contents of any container of regulated beverages nor possess any so adulterated, watered or changed. The provisions of this rule shall not apply to duly licensed manufacturers engaged in the blending or rectifying of regulated beverages under existing regulations or laws.

B. As set forth in R.S. 26:150(B)(4), no dealer shall do any act or thing which, by the laws of this state, is defined or prohibited as an unfair practice. Unfair sales as defined and prohibited in R.S. 51:421 et seq., are hereby deemed to be unfair practices.

C.1. To provide for the Truth in Labeling and Consumer Information Law, the following are required.

a. Any alcoholic beverage, concoction, or premixed alcohol mixed drink sold in a frozen drink machine, slush machine, or other type of dispensing system or device where the identity of the trademarked alcohol brands are lost in preparation, shall have affixed to such machine, dispensing system or device a sign clearly visible to the consumer

showing the trademarked alcohol brands contained in such mixture.

b. In casinos, riverboats, and establishments holding Class AG(6) Exception permits, that cannot be accommodated with a back bar, due to their confined space and their method of service for alcoholic beverages, the owner shall prominently display all trademarked alcohol brands and types of alcohol available for consumption on the premises. The display of trademarked alcohol brands and types of alcohol must be obvious and clearly visible to consumers.

2. Any distributor of such alcoholic beverages may provide the signs or displays that are required to be posted by the retail dealer, pursuant to the cost limitations set forth in LAC 55:VII.317.

D. Any violation of these regulations are deemed unfair practices and shall subject the permittee to revocation, suspension, or withholding of his alcoholic beverage permits after a second or subsequent conviction and /or fines after any conviction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:150(A).

HISTORICAL NOTE: Adopted by the Department of Public Safety, Office of Alcoholic Beverage Control, LR (1974), amended by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 27:1931 (November 2001).

Murphy J. Painter
Commissioner

0111#095

RULE

**Department of Social Services
Office of Family Support**

Child Care Assistance Program Eligibility, Providers,
and Payments
(LAC 67:III.5102, 5103, 5107, and 5109)

The Department of Social Services, Office of Family Support, has amended LAC Title 67, Part III, Subpart 12, the Child Care Assistance Program.

The agency reconsidered several changes as proposed in the Notice of Intent published in the August *Louisiana Register*, especially concerning the permanent termination of certain providers, and found reason to further revise §5107. Therefore, a new Notice of Intent concerning §5107 can be found in this issue and the previously proposed changes between Subsections A. and F. have been withheld from this final Rule.

**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
§5102. Definitions**

Case Head An individual who may apply for child care assistance for a child who customarily resides with him/her for more than half the time, including the child's parent, or an adult household member with primary responsibility for the child's financial support and care if the child's parent is

not living in the home or living in the home but is disabled as established by receipt of Social Security Administration Disability benefits, Supplemental Security Income, or Veterans Administration Disability for a disability of 70 percent or more and is unable to care for himself/herself and his/her child(ren) as verified by a doctor's statement, or is under age 18 and not emancipated by law.

Household A group of individuals who live together, consisting of the case head, that person's legal spouse or non-legal spouse, (if the parent of a child in the household), the disabled adult parent who is unable to care for himself/herself and his/her child(ren) who are in need of care and all children under the age of 18 who are dependent on the case head and/or spouse, including the minor unmarried parent (MUP) who is not legally emancipated and the minor unmarried parent's children.

Training or Employment Mandatory Participant (TEMP) A household member who is required to be employed or attending a job training or educational program, including the case head, the case head's spouse, and the minor unmarried parent age 16 or older whose children need child care assistance.

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 26:2826 (December 2000), LR 27:1932 (November 2001).

§5103. Conditions of Eligibility

A. - B.1. ...

2. The household must include a child in current need of child care services who is under the age of 13, or age 13 through 17 and physically or mentally incapable of caring for himself or herself, as verified by a physician or certified psychologist, or by receipt of Supplemental Security Income (SSI), or who is under court supervision.

3. ...

4. The case head, that person's legal spouse, or non-legal spouse (if the parent of a child in the household), including any minor unmarried parent age 16 or older who is not legally emancipated, and whose children are in need of Child Care Assistance, unless disabled as established by receipt of Social Security Administration Disability benefits, Supplemental Security Income, or Veteran's Administration Disability benefits for a disability of at least 70% must be:

B.4.a. - C. ...

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).

§5107. Child Care Providers

A. - F. ...

G The Child Care Assistance Program offers Repair and Improvement Grants to either licensed or registered providers, or to those who have applied to become licensed or registered, to assist with the cost of repairs and improvements necessary to comply with DSS licensing or registration requirements.

1. The program will pay for one-half of the cost of such a repair or improvement, up to the following maximums, which are based on the capacity of the child care provider:

Number of Children	Maximum Grant
1 to 6 (FCDCH)	\$100
7 to 20	\$500
21-40	\$1000
41-60	\$1500
61-80	\$2000
81-100	\$2500
101-120	\$3000
Over 120	\$3500

2. ...

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 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001).

§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 shall 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 C 60% of Projected Median Income

DSS %	Number in Household	2	3	4	5	6
85%	Monthly Household Income	0 - 968	0 - 1219	0 - 1471	0 - 1723	0 - 1974
70%		969 - 1147	1220 - 1434	1472 - 1722	1724 - 2010	1975 - 2297
55%		1148 - 1325	1435 - 1648	1723 - 1972	2011 - 2296	2298 - 2619
40%		1326 - 1503	1649 - 1863	1973 - 2222	2297 - 2582	2620 - 2941
25%		1504 - 1681	1864 - 2077	2223 - 2472	2583 - 2868	2942 - 3263
0%		ABOVE 1681	ABOVE 2077	ABOVE 2472	ABOVE 2868	ABOVE 3263

Number in Household	7	8	9	10	11	DSS %
Monthly Household Income	0 - 2226	0 - 2478	0 - 2729	0 - 2981	0 - 3233	85%
	2227 - 2504	2479 - 2712	2730 - 2919	2982 - 3126	3234 - 3334	70%
	2505 - 2782	2713 - 2945	2920 - 3108	3127 - 3271	3335 - 3434	55%
	2783 - 3060	2946 - 3179	3109 - 3297	3272 - 3416	3435 - 3534	40%
	3061 - 3338	3180 - 3412	3298 - 3486	3417 - 3560	3535 - 3634	25%
	ABOVE 3338	ABOVE 3412	ABOVE 3486	ABOVE 3560	ABOVE 3634	0%

Number in Household	12	13	14	15	16	DSS %
Monthly Household Income	0 - 3484	0 - 3736	0 - 3988	0 - 4239	0 - 4491	85%
	3485 - 3540	3737 - 3748				70%
	3541 - 3596	3749 - 3760				55%
	3597 - 3652	3761 - 3772				40%
	3653 - 3708	3773 - 3783				25%
	ABOVE 3708	ABOVE 3783				0%

B. - D. ...

E. A payment will not be made for a child who is absent from day care more than five days in a calendar month or for an extended closure by a provider of more than five consecutive days in any calendar month. A day of closure by the provider is counted as an absent day for the child.

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).

Gwendolyn P. Hamilton
Secretary

0111#062

RULE

**Department of Social Services
Office of Family Support**

Claims and Recovery of Over-Issued Food
Stamp Benefits—Collection Methods
(LAC 67:III.2009)

The Department of Social Services, Office of Family Support, has amended LAC Title 67, Part III, Subpart 3, Food Stamps.

Federal regulations give states the option of "compromising" a food stamp claim for overissued benefits; that is, a state may forgive a claim or any portion of a claim if it can be reasonably determined that a household's economic circumstances dictate that the claim will not be paid in three years. Although the agency has chosen not to

compromise claims in the past, this option is not stated in the administrative code for the Food Stamp Program. Therefore, pursuant to 7 CFR Part 273, Department of Agriculture, Food and Nutrition Service, the agency now includes this option.

Title 67
SOCIAL SERVICES
Part III. Office of Family Support
Subpart 3. Food Stamps
Chapter 19. Certification of Eligible Households
Subchapter P. Claims and Recovery of Over-Issued Food Stamp Benefits

§2009. Collection Methods

A.1. - 5. ...

B. The agency will not compromise claims, that is, forgive all or a portion of a debt. Claims may be terminated or written-off in accordance with federal policy.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 272, 273, 276 and 277, P.L. 103-66, P.L. 104-193, P.L. 104-134, 7 CFR 3 Subpart B, and FR 65:41752 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:768 (November 1986), amended by the Department of Social Services, Office of Family Support, LR 27:1018 (July 2001), LR 27:1934 (November 2001).

Gwendolyn P. Hamilton
Secretary

0111#063

RULE

Department of Social Services
Office of Family Support

Food Stamp Program Income Deductions and Resource Limits; Categorical Eligibility for Certain Recipients (LAC 67:III.1949, 1983 and 1987)

The Department of Social Services, Office of Family Support, has amended LAC Title 67, Part III, Subpart 3, Food Stamps.

A final Rule published in the June 20, 2001 issue of the *Louisiana Register* amended Subsections A of ' ' 1949, 1983, and 1987. By failing to show that there were no revisions to what followed each Subsection, the regulations contained in the subsequent Paragraphs and Subsections were effectively removed from LAC 67:III beginning July 1. This Rule restores the regulations to the *Louisiana Administrative Code*. Some revisions were made to update program names and to omit outdated text.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter H. Resource Eligibility Standards

§1949. Exclusions from Resources

A.1. - 4. ...

B. All of the resources of recipients of FITAP, SSI, and aid to the aged, blind, or disabled under Titles I, II, X, XIV, or XVI of the Social Security Act are excluded.

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:26937 et seq., 7 CFR 273.8 and 273.9C(v), P.L. 103-66, P.L. 106-387.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:656 (November 1987), amended by Department of Social Services, Office of Family Support, LR 18:1267 (November 1992), LR 21:187 (February 1995), LR 27:867 (June 2001), LR 27:1934 (November 2001).

Subchapter I. Income and Deductions

§1983. Income Deductions and Resource Limits

A.1. - 2. ...

3. The maximum dependent care deduction is \$200 per month for each child under 2 years of age and \$175 for each other dependent.

a. A child care expense that is paid for or reimbursed by the FIND Work Program or the Child Care Assistance Program is not deductible except for that portion of the cost which exceeds the payment or reimbursement.

B. The resource limit for a household is \$2,000, and the resource limit for a household which includes at least one elderly member is \$3,000.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.9 (d)(2) and (d)(6), P.L. 104C193, P.L. 106-387.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:423 (July 1986), amended LR 13:181 (March 1987), amended by the Department of Health and Hospitals, Office of Family Security, LR 15:14 (January 1989), amended by the Department of Social Services, Office of Family Support, LR 19:905 (July 1993), LR 21:188 (February 1995), LR 23:82 (January 1997), LR 27:867 (June 2001), LR 27:1934 (November 2001).

Subchapter J. Determining Household Eligibility and Benefit Levels

§1987. Categorical Eligibility for Certain Recipients

A.1. - 10. ...

B. Application Processing

1. Households in which all members are applying for public assistance shall continue to be processed according to joint processing procedures. Until a determination is made on the public assistance application, the household's food stamp eligibility and benefit level shall be based on food stamp eligibility criteria. However, the local office shall

postpone denying a potentially categorically eligible household until the thirtieth day in case the household is determined eligible to receive public assistance benefits.

2. The household shall be informed on the notice of denial that it is required to notify the local office if its FITAP or SSI benefits are approved.

3. If the household is later determined eligible to receive public assistance benefits after the thirtieth day and is otherwise categorically eligible, benefits shall be provided using the original application along with other pertinent information occurring subsequent to the application.

4. The local office shall not reinterview the household but shall use any available information to update the application and/or make mail or phone contact with the household or authorized representative to determine any changes in circumstances. Any changes shall be initialed and the updated application re-signed by the authorized representative or authorized household member.

5. If eligibility for public assistance is determined within the 30-day food stamp processing time, benefits shall be provided back to the date of application. If eligibility for public assistance is determined after the food stamp application is denied, benefits for the initial month shall be prorated from the effective date of the public assistance certification or the date of the food stamp application, whichever is later.

C. Certified households which become categorically eligible due to receipt of SSI benefits shall be eligible for the medical and uncapped shelter deductions from the beginning of the period for which the SSI benefits are authorized or the date of the food stamp application, whichever is later. These additional benefits shall be provided through restoration.

D. For food stamp purposes, Refugee Cash Assistance (RCA) benefits are not considered public assistance and, therefore, an RCA household is not categorically eligible.

AUTHORITY NOTE: Promulgated in accordance with F.R. 51:28196 et seq., 7 CFR 271, 272, 273.10, and 274; F.R. 56:63612-63613, P.L. 104-193, 7 CFR 273.2(j)(2)(xi).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:90 (February 1987), LR 18:1267 (November 1992), LR 24:1783

(September 1998), LR 26:349 (February 2000), LR 27:867 (June 2001), LR 27:1934 (November 2001).

Gwendolyn P. Hamilton
Secretary

0111#064

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Wild Quadrupeds (LAC 76:V.119)

The Wildlife and Fisheries Commission does hereby amend the Rule pertaining to participation in the Landowner Antlerless Deer Tag Program.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§119. Rules and Regulations for Participation in the Landowner Antlerless Deer Tag Program

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

d. Small landowners in Iberville, Pointe Coupee and West Baton Rouge Parishes who do not qualify for the Deer Management Assistance Program but do have more than 20 acres but less than 500 acres of forested land may be allowed to participate in the Landowner Antlerless Deer Tag Program provided that the land shall be posted with "Landowner Antlerless Deer Program" signs erected at the same intervals as specified in the Deer Management Assistance Program.

A.2. - A.5.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 26:2011 (September 2000), amended LR 27:1935 (November 2001).

Dr. H. Jerry Stone
Chairman

0111#032

Notices of Intent

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746C Louisiana Standards for State Certification of School PersonnelC Primary and Secondary Teaching (Focus) Areas for Grades 7-12 Certification (LAC I.903)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:1.903.A. This policy is a direct result of the new K-12 certification structure, which provides for greater in-depth content knowledge and instructional expertise across the grade levels. For grades 7-12 certification (secondary), all teachers must have a primary and a secondary focus (or specialty) area.

Title 28 EDUCATION

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

§903. Teacher Certification Standards and Regulations Bulletin 746

* * *

Primary and Secondary Teaching (Focus) Areas for Grades 7-12 Certification

Within the new certification structure that has been approved by the State Board of Elementary and Secondary Education, every secondary teacher in Louisiana must have a primary and a secondary focus area. The following areas are approved primary focus areas, to include a minimum of 31 semester hours of credit:

Agriculture (Vocational); Business Education; Computer Science; Distributive Education; English; French; Spanish; Latin; German; Family and Consumer Science; Industrial Arts; Mathematics; General Science; Biology; Chemistry; Earth Science; Physics; Environmental Science; Speech; and Social Studies.

The following areas are approved secondary focus areas, to include a minimum of 19 semester hours of credit:

Business Education; Computer Science; Distributive Education; English; French; Spanish; Latin; German; Journalism; Mathematics; Biology; Chemistry; Earth Science; Physics; Environmental Science; Speech; and Social Studies.

Primary and Secondary Teaching (Focus) Areas for Grades 7-12 Certification

Certification Area	Primary 31 Hours	Secondary 19 Hours	Comment
Agriculture - Vocational	✓		
Business Education	✓	✓	
Computer Science	✓	✓	
Distributive Education	✓	✓	
English	✓	✓	
Foreign Languages			
French	✓	✓	
Spanish	✓	✓	
Latin	✓	✓	
German	✓	✓	
Family & Consumer Science	✓		
Industrial Arts	✓		
Journalism		✓	
Mathematics	✓	✓	
Science			If a candidate pursues General Science as a primary teaching area, then the specific science area hours (e.g., Biology, Chemistry, etc.) would also apply to the required secondary focus hours in that specific field.
General Science	✓		
Biology	✓	✓	
Chemistry	✓	✓	
Earth Science	✓	✓	
Physics	✓	✓	
Environmental Science	✓	✓	
Speech	✓	✓	
Social Studies	✓	✓	
NOTE: If a university determines that hours beyond the required hours are needed for a specific primary (31) or secondary (19) teaching area, then the university may use portions of the flexible hours within the 124 total hours to address that need.			

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:183 (April 1975), amended LR 1:310 (July 1975), LR 1:398 (September 1975), LR 1:435 (October 1975), LR 1541 (December 1975), LR 27:825-828 (June 2001), LR 28:

Interested persons may submit comments until 4:30 p.m., January 9, 2002, 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 746C Louisiana Standards
for State Certification of School PersonnelC Primary
and Secondary Teaching (Focus) Areas for
Grades 7-12 Certification**

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

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

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

This policy will have no effect on revenue collections.

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

There will be no added costs or economic benefits as a result of this policy revision. This policy is a direct result of the new K-12 certification structure, which provides for greater in-depth content knowledge and instructional expertise across the grade levels. For grades 7-12 certification (secondary), all teachers must have a primary and a secondary focus (or specialty) area.

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

This policy will have no effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent
0111#076

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

BESE Bulletins and RegulationsC Removal from
the *Louisiana Administrative Code*

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education approved for advertisement the following revision to Title 28, Education. The revision will remove from the *Louisiana Administrative Code* 185 Bulletins which are non-regulatory, obsolete, or no longer issued.

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

Bulletin Number	Bulletin Name
746, Part B	Louisiana Standards for State Certification of School Personnel, Vocational-Technical Personnel
1134	Standards and Guidelines for Library Media Programs in Louisiana Schools
1404	National and Regional Accrediting Agencies for Proprietary Schools
1430	Agent/Solicitor - Proprietary Schools
1443	Rules and Regulations - Proprietary Schools
1452	Handbook for Supervisors of Child Welfare and Attendance, Visiting Teachers and School Social Workers
1462	Louisiana School Directory
1472	Annual Financial and Statistical Report
1532	The Early Childhood Special Education Handbook for Louisiana's Early Education Program
1553	Bureau of Veterans' Education and Training

1575	Reference Handbook: Occupational and Physical Therapy in Louisiana Schools
1580	Algebra I
1581	Geometry
1582	Algebra II
1583	Advanced Mathematics
1586	Elementary Classroom Music
1587	Secondary Music Education
1588	Language Arts K-6
1591	Elementary Art Education
1592	Secondary Art Education
1596	Comprehensive Health K-10
1597	Physical Education K-10
1598	Free Enterprise
1599	American History
1600	Civics
1601	Social Studies K-6
1604	American Studies Grade 7
1605	Louisiana Studies Grade 8
1606	Consumer Mathematics
1609	Mathematics K-8
1610	Computer Science
1612	Business Mathematics
1613	Science K-5
1614	Life Science/Ecology Grade 7
1617	Resource Manual for Administrators and Teachers of the Visually Impaired
1619	Louisiana Education Employees Professional Improvement Program
1635	Secondary Health Occupations Guide, 1987 Ed.
1640	Mildly Handicapped
1643	Earth Science Grade 8
1644	Physical Science (HS)
1645	General Science
1646	Biology I
1660	Chemistry I
1661	Secondary Physics
1662	Competency-Based Business Education, Typing/Shorthand/Clerical Practice
1664	Child Development, Vol. 1 and Vol. 2
1674	Vocational Education Curriculum Development General Safety and Health Manual for Technical, Vocational, and Technology Education Programs
1680	Housing
1682	Industrial Arts Curriculum Guide, Grades 6, 7, 8
1683	General Industrial Arts
1684	Basic Woodworking Technology
1685	Basic Metals
1686	Basic Technical Drafting
1686	Supplement to 1686, CADD Module
1687	Industrial Arts Curriculum Project
1690	Basic Program of Vocational Agriculture in Louisiana, Vol. I, Vol. II, and Vol. III
1695	Parenthood Education
1698	Energy Efficient Homes and Small Buildings
1699	Word Processing
1700	Clothing and Textiles
1705	Moderate/Profoun d
1710	Adult Responsibilities
1717	Adapted Physical Education Curriculum Guide
1721	Business English
1722	Elementary Environmental Science Resource Unit
1723	Energy/Power and Transportation
1724	Basic Electricity/Electronics
1725	Advanced Program of Vocational Agriculture in Louisiana, Vol. I, Vol. II, and Vol. III
1727	World Geography
1727	World Geography Map Supplement
1729	Introduction to Business
1734	French as a Second Language Program (grades 4-8) Spanish as a Second Language Program (grades 4-8)
1735	FHA Advisor's Handbook, 1996

1737	Fine Arts Survey
1739	Computer Literacy
1740	Marketing and Distributive Education I, 1985
1750	Advanced Metals
1751	Advanced Technical Drafting
1752	Advanced Woodworking Technology, 1985
1755	Louisiana Slide Video Library Catalog
1758	World History
1759	Western Civilization
1771	Data Processing (in revision)
1775	Child Care
1776	Exploratory Homemaking
1777	Basic Graphic Arts
1778	Advanced Electronics
1779	Architectural Drafting
1780	Acadians of Louisiana
1781	Recordkeeping
1792	Environmental Science
1795	English Language Arts 7-12
1802	Introduction to Algebra
1803	Advanced Electricity -Microprocessors and Robotics
1807	A Resource Guide for Personnel Serving Deaf and Hard of Hearing Students
1810	Consumer Homemaking I
1812	Principles of Technology
1813	Power Mechanics
1814	Business Math
1815	Entrepreneurship for Marketing Education
1816	Publications I & II (Yearbook)
1819	Publications I & II (Newspaper)
1820	Biology II
1821	Home and Family, 1987
1822, Part 1	Competency Based Postsecondary Curriculum Outlines (Diploma Program)
1822, Part 2	Competency Based Postsecondary Curriculum Outlines (Associate Degree Program)
1824	Greenhouse Management
1825	Dynamics of Effective Study
1827	AIDS Education Curriculum Guide
1830	GUMBO: Games Uniting Mind and Body
1832	English Language Arts Curriculum Guide for the Limited English Proficient Students, Grades K-12
1835	Chemistry II
1836	Handbook for Parent Involvement
1837	Handbook for Parent Involvement
1851	Educating the Non/Limited English Proficient Student
1856	Exploration of Construction Technology
1859	Basic Welding
1864	Substance Abuse Prevention Education Curriculum Guides Volume 1: Pre-K - 6 Volume 2: 7 - 12
1866	Competency-Based Administrative Support Occupations
1867	Graduation Exit Examination Annual Report for 1998-99
1869	Writing Measurable IEPs – A Training Package
1870	Determining Eligibility for Extended School Year Programs/Program Standards for Extended School Year Services
1873	Physical Science Grade 6
1876	Modern Foreign Language Curriculum Guide (grades 9-12)
1878	Principles of Technology II
1879	Related Services in the Educational Setting: Guidelines for IEP Committees
1880	Computer Numerical Control (CNC)
1880	Computer Numerical Control Supplement to Bulletin 1880
1882	Administrative Leadership Academy of Louisiana Guidelines
1883	School-Based Therapy: A Parents' Guide
1885	Clean Intermittent Catheterization in the Educational Setting
1887	Needs Assessment for Adult Responsibilities Course
1892	Nutrition Education: Nutrition and Food
1893	Motorcycle Safety, Awareness and Operator Training Program

1894	The Pebble Book (Using the Arts in the Elementary Classroom)
1895	MCOP
1896	Energy Conservation Lab Manual K-8
1897	Cooperative Home Economics Education
1898	Agriscience/Agrimarketing Summer Programs
1900	Integrated Algebra/Geometry
1902	Communication Technology
1906	Keyboarding Applications
1908	Manufacturing Technology
1909	Guidelines for Training: Noncomplex Health Procedures
1910	General Technology Education
1911	Food Science
1912	The Student Outcome Guide: A Resource Manual for Technical Assistance Providers in Programs Serving Students with Severe Disabilities
1914	Elementary Computer Literacy
1915	Business Education Course Outline and Core Competencies
1916	T & I Program and Course Standards
1917	Materials and Processes
1918	Creative Movement-Dance
1919	Communication-Theatre Arts
1920	Early Childhood
1923	Middle School Music
1924	Middle School Visual Arts
1926	Applied Agriscience Activities for Agriscience/Agrimarketing Programs
1927	Preschool Grant Application: Program for Children with Disabilities, ages 3-5
1933	The LA Curriculum System: Process Guide for Developing Inclusive Functional Programs for Students with Severe Disabilities
1936	Louisiana Nutrition Education and Training Program Resource Guide
1938	Church-Based
1942	Junior High Agriscience
1944	Marketing Education: Course Outline and Core Competencies
1945	Business Computer Applications I & II (1994)
1946	Health Occupations: Course Outline and Core Competencies
1947	Minimum Foundation Program Handbook
1948	Secondary Health Occupations Course Outline and Core Competencies (1995)
1949	Family Life Education and Family Economics
1951	Exploratory Business for Middle Schools, 1996
1956	Louisiana Mathematics Teacher Handbook
1957	End-of-Year Narrative Annual Performance Report for Adult Education – 1995-96
1967	Louisiana K-3 Reading and Math Initiative
1970	End-of-Year Narrative Annual Performance Report for Adult Education – 1996-97
1974	Annual Teacher Salary Schedule
1975	Minimum Foundation Program Audit and Evaluation Databook
1976	Annual School Level Expenditures Report, 1996-97
1990	Nursing Assistant
1991	Laboratory Technology
2000	Process Guidelines for Standards for Approval of Teacher Education Program (will replace contents of Bulletin 996)
2015	Regulations for the Tuition Exemption Program for School Support Staff (includes Tuition Exemption Pilot Program for School Support Staff and Tuition Exemption Program for Teacher Aides & Paraprofessionals)
	Louisiana's Handbook for Serving Students with Traumatic Brain Injury
	The General Education Access Guide: A Tool Kit for Program Development
	Grade 7 Exploratory Family and Consumer Sciences Curriculum Guide (Aug. 98)
	Grade 8 Exploratory Family and Consumer Sciences Curriculum Guide (Aug. 98)
	Business Education
	Agriscience

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

Weegie Peabody
Executive Director

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

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
This action will have no fiscal effect other than \$160 for advertising in the *Louisiana Register*.
BESE is removing from the LAC 185 Bulletins which have been determined to be non-regulatory, obsolete, or no longer issued.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This action 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)
This action will have no effect on cost and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This action will have no effect on competition and employment.

Weegie Peabody
Executive Director
0111#075

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. 301,503, 507, 701, 705, 803, 903,
907, 1303, 1501, 1503, 1901, 1903, 2103, and 2107)

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

The full text of these proposed rules may be viewed in the Emergency Rule section of this issue of the *Louisiana Register*.

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

Interested persons may submit written comments on the proposed changes until 4:30 p.m., December 20, 2001, to Jack L. Guinn, Executive Director, Office of the Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Mark S. Riley
Assistant Executive Director

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

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No additional costs are anticipated to result from these changes. The revisions and clarifications are consistent with current interpretation and enforcement of the programs.
These rule changes redefine the award amount for TOPS-Tech; redefine the term full-time student; change the TOPS billing procedure for the Louisiana Technical College; make technical and administrative changes to conform other sections of the rules to recent statutory changes and actual administrative practices; change the renewal application procedure for TOPS-Teacher to be consistent with that for other TOPS awards, and to delete Chapter 15 of the program rules dealing with the defunct T. H. Harris Scholarship Program.
Rule changes to Section 301 will have no cost effect. Language in the rules adopted in summer 2000, which related to calculation of the award amount for certain students, was inconsistent with the statutory requirement and related provisions in the rules. The statute requires use of the "weighted average tuition" to calculate award amounts for students enrolled at colleges and universities that are members of the Louisiana Association of Independent Colleges and Universities (LAICU). The rule required using the "average maximum tuition" to calculate award amounts for students with the TOPS Opportunity, Performance, and Honors Award who pursued non-academic training at LAICU institutions. Other related rules provide for the determination of such award amounts by dividing the total dollar value of the awards, which are made to students enrolled in the same types of programs at public colleges and universities, by the total number of students that received the awards. In the 2000-2001 award year, there were no students who were awarded under the rule being revised.
- 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)
Program administrators, schools and recipients will benefit from clarified and correct rules.
- 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
0111#038

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

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

The Louisiana Tuition Trust Authority (LATTA) announces its intention to amend rules of the Student Tuition and Revenue Trust (START Savings) Program (R.S. 3091-3099.2). The full text of these proposed rules may be viewed in the emergency rule section of this issue of the *Louisiana Register*.

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

Interested persons may submit written comments on the proposed changes until 4:30 p.m., December 20, 2001, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9201.

Mark S. Riley
Assistant Executive Director

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

**RULE TITLE: Student Tuition and Revenue Trust
(START Saving) Program**

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

The rule revises the definition of eligible educational institution and revises the residency requirement for participation in the START College Savings Program.

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

No impact on revenue collections to the Office of Student Financial Assistance is anticipated to result from the revision.

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

This rule change provides that permanent residents can be considered residents for the purpose of participating in the program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Mark S. Riley
Assistant Executive Director
0111#037

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

State Contribution toward Retirees' Health Premiums

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801.C and 802.B(2) vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, and pursuant to the authority granted by R.S. 42:851.A.(1)(d)(i)(ee), OGB hereby gives Notice of Intent to adopt the following Rule providing with respect to the state contribution toward premiums for participation in OGB Health Plans upon retirement, in accordance with R.S. 42:851.A(1)(d)(i)(aa) through (dd).

A. For any person who is an active employee, as defined by R.S. 42:808 or OGB Rule, and who does not participate in an OGB Health Plan, as defined herein, before January 1, 2002, but subsequently enrolls in an OGB Health Plan, or any person who commences employment with an OGB participant employer on or after January 1, 2002, the state contribution of the premium for participation in an OGB Health Plan upon retirement shall be:

1. nineteen percent for those persons with less than ten years of participation in an OGB health plan before retirement;
2. thirty-eight percent for those persons with 10 years of participation but less than 15 years of participation in an OGB health plan before retirement;
3. fifty-six percent for those persons with 15 years of participation but less than 20 years of participation in an OGB health plan before retirement;
4. seventy-five percent for those persons with 20 or more years of participation in an OGB health plan before retirement.

B. The foregoing schedule will also apply to the state contribution toward premiums for surviving spouse and/or surviving dependent coverage for survivors of employees who retire on or after January 1, 2002 if such spouse and dependents are not enrolled in an OGB health plan before July 1, 2002.

C. This Rule does not affect the contributions paid by the state for:

1. any participant who is a covered retiree before January 1, 2002;
2. any active employee who is enrolled in an OGB Health Plan before January 1, 2002 and maintains continuous coverage through retirement;

3. surviving spouse and/or surviving dependent coverage for survivors of employees who retire on or after January 1, 2002 if such spouse and dependents are enrolled in an OGB health plan before July 1, 2002 and continuous coverage is maintained until the employee's death.

D. The term "OGB Health Plan" as used herein includes all health plans offered as primary health care plans to employees of OGB participating employers, for which the state contributes a share of the premium, including self-insured plans such as the PPO and the EPO, and fully insured HMO plans offered as alternative options.

E. For the purpose of determining the percentage of the state contribution toward premiums in accordance with this Rule, the number of years of participation in OGB Health Plans must be certified by the participating employer from which the employee retires on a form provided by OGB.

1. Such certification must be based upon business records maintained by the participating employer or provided by the employee.

2. Business records upon which certification is based must be available to OGB, the Division of Administration, and to the Legislative Auditor.

3. Not more than 120 days prior an employee's scheduled date of retirement, OGB will provide to the participating employer, upon request, all information in its possession relating to an employee's participation.

4. At the time of application for surviving spouse and/or surviving dependent coverage, OGB will provide, upon request, all information in its possession relating to participation of such surviving spouse and/or surviving dependent.

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 on Friday, December 28, 2001.

A. Kip Wall
Chief Executive Officer

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

**RULE TITLE: State Contribution toward Retirees'
Health Premiums**

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

It is estimated by OGB's consulting actuary, Arthur Andersen, that this benefits modification will reduce the state's share of the premium for employees that have not joined the program prior to January 1, 2002, while the retirees' share will rise by a comparable amount. The net effect of this change should not be material, in the short term; however, the state should begin to realize savings in retiree contributions within 10-20 years.

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

Revenue collections of state and local governmental units will not be affected.

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

This rule change will require that any person that is not covered prior to January 1, 2002, and subsequently retires, to have the level of state funding to be based on the years they

were covered in the plan prior to retirement. For those employees that were covered for 0-10 years, the state participation will be 19 percent of total premium; for 15-20 years of coverage, the state participation will be 56 percent of total premium; and for coverage over 20 years, the state participation will be 75 percent of total premium.

All retirees currently covered and those active employees that are covered prior to January 1, 2002 will receive a 75 percent state participation under "grandfathering" provisions of this rule.

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

Competition and employment will not be affected.

A. Kip Wall
Chief Executive Officer
0111#028

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Property Assistance Agency**

Items of Property to be Inventoried (LAC 34:VII.307)

In accordance with the R.S. 49:950 et seq., the Division of Administration, Louisiana Property Assistance Agency, hereby gives notice of its intent to amend LAC 34:VII.307. The Items of Property to be Inventoried rules will have no known impact on family formation, stability, and autonomy as set forth in R.S. 39:321.

Title 34

**GOVERNMENT CONTRACTS, PROCUREMENT
AND PROPERTY CONTROL**

Part VII. Property Control

Chapter 3. State Property Inventory

§307. Items of Property to be Inventoried

A. All items of moveable property having an "original" acquisition cost, when first purchased by the state of Louisiana, of \$1000 or more, all gifts and other property having a fair market value of \$1000 or more, and all weapons, regardless of cost, with the exception of items specifically excluded in §307.E, must be placed on the statewide inventory system. The term "moveable" distinguishes this type of equipment from equipment attached as a permanent part of a building or structure. The term "property" distinguishes this type of equipment from "supplies" with supplies being consumable through normal use in no more than one year's time. All acquisitions of qualified items must be tagged with a uniform state of Louisiana identification tag approved by the commissioner of administration and all pertinent inventory information must be forwarded to the Louisiana Property Assistance Agency director or his designee within 60 days after receipt of these items.

B - G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39.321 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Property Control, LR 2.228 (August 1976), amended 8:277 (June 1982), amended by the Office of the Governor, Division of Administration, Louisiana Property Assistance Agency, LR 15:832 (October 1989), LR 18:1256 (November 1992), LR 28:

Interested persons may submit written comments on the proposed revision to Irene Babin, Director, Louisiana Property Assistance Agency, P.O. Box 94095, Baton Rouge, LA 70804-9095. Written comments will be received until 5 p.m. December 20, 2001.

Irene C. Babin
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Items of Property to be Inventoried**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There will be no implementation cost to any state or local governmental unit.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of any state or local governmental unit.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no cost and/or economic benefit to any directly affected persons or nongovernmental group.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Irene Babin
Director
0110#008

H. Gordon Monk
Staff Director
Legislative Fiscal Office

**NOTICE OF INTENT
Office of the Governor
Division of Administration
Racing Commission**

Claiming Rule (LAC 45:XI.9915 and 9939)

The Louisiana State Racing Commission hereby gives notice that it intends to amend LAC 35:XI.9915 "Number of Horses Claimed Per Race" and LAC 35:XI.9939 "Number of Claims on Stable or Trainer" because it is no longer desirable nor necessary to limit one claim per claiming race; it is more beneficial to all parties to increase that limit to two. This is consistent with other racing jurisdictions.

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

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

The domicile office of the Louisiana State Racing Commission is open from 8:30 a.m. to 5 p.m. and interested parties may contact Charles A. Gardiner III, executive

director, or C.A. Rieger, assistant director, at (504) 483-4000 (FAX 483-4898), holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this proposed rule through December 10, 2001, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Claiming Rule**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There are no anticipated costs or savings to state or local governmental units associated with these rules, other than those one-time costs directly associated with the publication of these rules.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is estimated to be a minimal positive effect on revenue collections of state and local governmental units associated with this proposed rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This action benefits horse owners by allowing them to claim up to two horses per race instead of only one.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment as a result of the proposed rule.

Charles A. Gardiner, III
Executive Director
0111#005

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Racing Commission**

Net Slot Machine Proceeds (LAC 35:III.5737)

Editor's Note: The original text in Section 5737 ("Commission Office") was moved to Section 5738 to allow slot machine subject matter to be consecutive. This information is being repromulgated in Section 5738 with no changes for informative purposes only.

The Louisiana State Racing Commission hereby gives notice that it intends to adopt LAC 35:III.5737 "Net Slot Machine Proceeds," because the commission finds it necessary to expand on the statutes involving slot machines housed at racing associations, specifically R.S. 27:353, R.S. 27:354 and R.S. 27:361, and specify certain provisions thereof.

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

**Title 35
HORSE RACING**

**Part III. Personnel, Registration, and Licensing
Chapter 57. Associations' Duties and Obligations
§5737. Net Slot Machine Proceeds**

A. The commission, pursuant to R.S. 27:354, finds that it is in the best interests of licensed associations, breeders associations, horsemen, and the state that the annual payments provided for in R.S. 27:361 be paid in monthly installments.

B. The definitions set forth in R.S. 27:353 are incorporated herein by reference.

C. Not later than the date on which an association installs slot machines at its facility, it shall open three separate checking accounts as provided for herein. One account shall be a control bank account into which not less than 100 percent of the net slot machine proceeds for the activity month shall be deposited in sufficient time to be distributed or disbursed not later than the 20th day of the following month as required by these rules. The association shall also open two distinct interest bearing accounts, one for thoroughbred purse proceeds and one for quarter horse purse proceeds, into which the association shall make its deposits for purse supplements of 5 percent of net slot machine proceeds and from which funds, including interest earned, such purse supplements shall be made available as provided by law and these rules.

D. While an association is conducting live racing, the monies due to be paid pursuant to R.S. 27:361(B)(4)(a) shall be made available monthly for use as purses prior to the 20th day of the month following the month in which they are earned, during the current race meeting.

E. While an association is not conducting live racing, the monies due to be paid pursuant to R.S. 27:361(B)(4)(a) shall be deposited in the appropriate breed account either:

1. for accrual until the first day of the next live race meeting conducted by that association for that breed at which time such accumulated monies, including interest, shall be used to supplement appropriate purses during that race meeting; or

2. with prior written agreement of the Louisiana HBPA for reimbursement to the association for actual funds advanced to supplement purses at a preceding race meeting in anticipation of the revenue to be earned from slot machines. However, an association shall not be reimbursed except from proceeds earned during the same annual period during which it advanced the purse supplements.

F. The monies due to be paid by an association pursuant to R.S. 27:361(B)(4)(b) and (c) shall be remitted monthly to the appropriate breeders association and the monies due to be paid by an association pursuant to R.S. 27:361(B)(4)(a)(i) and (ii) shall be remitted monthly to the HBPA, prior to the 20th day of the month following the month in which they are earned.

G. Each racing association conducting slot machine gaming shall file with the commission a complete report, on a form acceptable to the commission, not later than the 20th day of each month, setting forth the amounts deposited and payments made from the net slot machine proceeds earned

the preceding month, as well as payments for purses and payments to breeders associations and to the HBPA. Copies of those bank accounts required to be maintained by Subsection C of this section shall be submitted to the commission along with the monthly report.

H. Each racing association, after conducting slot machine gaming for 12 months, shall file an annual report with the commission, on forms acceptable to the commission, not later than the 20th day of the following month, and on that date each following year, which report shall certify under oath by a responsible officer the association's compliance with all requirements under R.S. 27:361(B)(4) and under this rule. Each such 12-month period shall constitute an annual period for the purposes of this rule.

I. All records and reports pertaining to slot machines, including checking accounts, maintained by an association shall be subject to inspection, reporting procedures and audits by the commission. All records and reports on revenues and expenses from slot machines shall be included as part of the association's annual CPA opinion audit submitted to the commission.

J. Before receiving any payments provided by R.S. 27:361(B)(4)(b) or (c), the respective Executive Committee of the Louisiana Thoroughbred Breeders Association and Executive Committee of the Louisiana Quarter Horse Breeders Association shall file with the commission the schedule or formula and within a time period which it has established for the distribution of such funds. Any amendments or modifications to such distribution schedule or formula shall be filed with the commission within 30 days of its adoption by the Executive Committee. A true and complete copy of each such filing with the commission shall be delivered to each racing association and the filing shall so certify delivery. Each Executive Committee shall also file a monthly report with the commission of revenue received, payments made, and the bank balance on hand along with a copy of the bank statement.

K. After the expiration of one year from the filing of its first distribution schedule or formula with the commission but within 20 days thereafter, and on that date each following year, the respective Executive Committee of the Louisiana Thoroughbred Breeders Association and Executive Committee of the Louisiana Quarter Horse Breeders Association shall file with the commission a report which shall certify under oath by a responsible officer the association's compliance with its applicable distribution schedule or formula and within a time period which it has established for the distribution of such funds.

L. An association shall publicly disclose its schedule for the distribution of funds for purse supplements to be made pursuant to R.S. 27:361(B)(4)(a). Excluding those funds statutorily dedicated to races restricted to accredited Louisiana-breds, the remaining funds shall be distributed proportionately according to the conditions of the races in which the remaining funds are used to insure parity among restricted and non-restricted races.

M. Whenever it appears to the executive director of the commission that a violation may have occurred, he shall furnish the apparent violator with a warning letter, sent by ordinary mail and by fax, affording the party 15 days from

the date of the transmission of the letter to correct the violation.

N. If the apparent violation has not been timely corrected, the executive director, or his designee, shall within 10 days give written notice, by certified mail, to the party that its responsible officers are to appear before him for an informal conference to determine whether a violation has occurred and, if so, whether the violation can be corrected in the absence of imposing a fine or indefinitely suspending the license of the party, or refusing to allow the party to receive payments under this rule. Such informal hearing shall be conducted in accordance with the Administrative Procedures Act applicable to such hearing.

O. If the executive director, or his designee, determines after affording the party an opportunity for an informal conference that a violation has occurred and that a fine, license suspension, or other appropriate action should be taken, he shall file a *rule to show cause* with the commission for the notified party and its responsible officers to appear before the commission and show cause why disciplinary action or sanctions should not be imposed. The *rule to show cause* shall be forwarded by certified mail and by fax to the party. The cited party shall have 10 days from transmission, excluding holidays and weekends, to file with the commission a written response, under oath, and to submit a list of the names and addresses of all witnesses it desires to be subpoenaed for the hearing, including those to produce documents and other things. The failure to timely file a verified response may, in the commission's discretion, result in the cited party being refused to participate in the hearing on the *rule to show cause*.

P. At the conclusion of the hearing, the commission shall take action appropriate to the violation if it finds that one has occurred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:353, R.S. 27:354 and R.S. 27:361.

HISTORICAL NOTE: Promulgated by the Division of Administration, Racing Commission LR 28:

§5738. Commission Office

A. Each association shall provide and furnish an adequate office for the use of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:435 (December 1976), LR 3:31 (January 1977), LR 4:278 (August 1978), repromulgated LR 28:

The domicile office of the Louisiana State Racing Commission is open from 8:30 a.m. to 5 p.m., and interested parties may contact Charles A. Gardiner III, executive director, or C. A. Rieger, assistant director, at (504) 483-4000 (holidays and weekends excluded), or by fax (504) 483-4898, for more information. All interested persons may submit written comments relative to this proposed rule through December 10, 2001, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, Louisiana 70119-5100.

Charles A. Gardiner III
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Net Slot Machine Proceeds

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

There are no anticipated costs or savings to state or local governmental units associated with these rules, other than those one-time costs directly associated with the publication of these rules.

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

There is estimated to be no effect on revenue collections of local governmental units associated with this proposed rule.

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

This action benefits racing associations and breeder associations by stipulating distribution of proceeds already provided for in R.S. 27:354 and 361, and penalties for violations thereof.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of the proposed rule.

Charles A. Gardiner III
Executive Director
0111#004

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Office of Financial Institutions

Loan Brokers (LAC 10:XV.Chapter 15)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Office of Financial Institutions hereby proposes to promulgate regulations to require that any person located within this state that solicits a loan for a Louisiana consumer from a third party for or in expectation of compensation shall obtain a license as a loan broker and must comply with the provisions of the Louisiana Loan Brokers Act, ("LLBA"), R.S. 9:3572.1, et seq., the Louisiana Consumer Credit Law, ("LCCL"), R.S. 9:3510, et seq., and the Louisiana Deferred Presentment and Small Loan Act, ("LDPSLA"), R.S. 9:3578.1.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES, AND UCC

Part XV. Other Regulated Entities

Chapter 15. Licensure

§1501. Definitions

Licensee—A person licensed by the commissioner under the provisions of the:

1. Louisiana Check Cashers Act—R.S. 6:1001 et seq.;
2. Louisiana Sale of Checks and Money Transmission Act—R.S. 6:1031 et seq.;
3. Louisiana Consumer Credit Law—R.S. 9:3510 et seq.;

4. Louisiana Credit Repair Services Organizations Act CR.S. 9:3573.1 et seq.;

5. Louisiana Collection Agency Regulation Act CR.S. 9:3576.1 et seq.;

6. Louisiana Deferred Presentment and Small Loan Act CR.S. 9:3578.1 et seq.; and

7. Louisiana Pawnshop Act CR.S. 37:1781 et seq.

*Loan*Ca loan to a Louisiana consumer for personal, family, or household purposes.

*Loan Broker*Ca person who, for compensation or the expectation of compensation regardless of its source, obtains or offers to obtain a loan from a third party wherever domiciled, if the broker is operating in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 28:

§1503. Licensure of Loan Brokers

A. No person having an office in Louisiana shall broker a loan in Louisiana unless exempt by statute, without first being licensed and complying with the provisions of the Louisiana Loan Brokers Act

B. Any licensee who performs loan brokerage activity or who enters into a loan brokerage agreement in Louisiana without first being licensed and complying with the provisions of the LLBA may be subject to having any other Louisiana license they hold suspended or revoked by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 28:

§1505. Prohibition

A. A person licensed or exempt from licensure as a loan broker, is prohibited from brokering a loan to a Louisiana consumer which does not comply with the LCCL or LDPSLA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 28:

§1507. Civil Money Penalties

A. Any person or licensee who is found to be in violation of this regulation may be subject to any and all of the administrative and enforcement proceedings provided by R.S. 9:3554.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 28:

§1509. Administrative Procedure

A. The Louisiana Administrative Procedure Act, R.S. 49:950 et seq., shall govern all proceedings instituted under the coverage of the rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 28:

If any provision or item of this regulation, or the application thereof, is held invalid, such invalidity shall not affect other provisions, items, or applications of the regulation which can be given effect without the invalid provisions, items, or application.

The proposed rule will have no adverse fiscal or economic impact, nor will it adversely impact family formation, stability, and autonomy.

Any interested party may submit written comments on the proposed rule to Gary L. Newport, General Counsel, Louisiana Office of Financial Institutions, at P.O. Box 94095, Baton Rouge, LA 70809, or may deliver comments to 8660 United Plaza Boulevard, Baton Rouge, Louisiana, until 4:30 p.m., December 20, 2001.

John D. Travis
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Loan Brokers

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

The proposed rule will not result in any additional costs to the state of Louisiana. The purpose of the rule is to ensure that no person engages in brokering consumer loans in Louisiana without first complying with the licensing provisions of the Louisiana Loan Brokers Act. The rule also requires that consumer loans brokered by licensed or exempt persons comply with either the Louisiana Consumer Credit Law or the Louisiana Deferred Presentment Small Loan Act.

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

The proposed rule will result in an estimated increase in revenue to the state of Louisiana of \$8,900 annually as a result in the increase in the number of persons required to be licensed under the Louisiana Loan Brokers Act. There will be no impact on any other governmental units.

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

The proposed rule shall only affect persons licensed or exempt pursuant to the Louisiana Loan Brokers Act. Currently approximately 3 additional companies with 74 employees will be required to be licensed in Louisiana as a result of the proposed rule. Total costs to each company will be a \$500 annual company licensing fee and a \$100 annual licensing fee for each employee engaging in brokering consumer loans.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment within the affected industry as a result of the proposed rule.

Gary L. Newport
General Counsel
0111#079

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Office of Women's Services

Microenterprise Development Program
(LAC 4:VII.1741 and 1743)

In Accordance with the Administrative Procedure Act, R.S. 49:953(B), the executive director of the Governor's Office of Women's Services (OWS) is proposing to adopt the following rule for the implementation of the Microenterprise Development Program to further the goals of and the

intentions of the federal Temporary Assistance to Needy Families Block Grant funds. This proposed rule facilitates expenditures of Temporary Assistance to Needy Families (TANF) funds as authorized by ACT 12 of the 2001 Regular Session of the Louisiana Legislature for the support of microenterprise development, in accordance with federal and state regulations (45 CFR Part 260 et seq. and LAC 67:III.Subpart 15).

The text of this proposed rule may be viewed in its entirety in the Emergency Rule section of this issue of the *Louisiana Register*.

Interested persons may contact Carolyn Carter at P.O. Box 94095, Baton Rouge, LA 70804-9095 through the close of business on December 21, 2001.

Vera Clay
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Microenterprise Development Program

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

The total cost to State government is \$1,000,000 in FY 01-02 as a result of the TANF (Temporary Assistance for Needy Families) funding received from DSS for Microenterprise development. This funding is anticipated to be available only for FY 01-02.

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

There will be no effect on state and local governmental revenue collections.

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

The goal is to enable 75 micro enterprise start-ups and 75 expansions statewide. A 1999 Aspen Institute study of microenterprise found the 72% of these individuals increased household income by \$8,484 over a five year period, for an average of \$1,696.80. The average reduction in AFDC benefits declined by \$1,679 per year during the study period.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effect on competition is not measurable. However, the effect on employment is expected to be the creation of 1.5 jobs for each Microenterprise created.

Vera Clay
Executive Director
0111#001

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Examiners for Speech-Language Pathology and Audiology

Speech-Language Pathology and Audiology
(LAC 46:LXXXV.109, 113, 115,
117, 119, 123, 125, and 507)

The Louisiana Board of Examiners for Speech-Language Pathology and Audiology proposes to amend the following rules as authorized by R.S. 37:2656(1)(c) to clarify the rules

amended on February 20, 2001, and to correct codification errors that occurred in the course of promulgation.

The following amendments address codification errors in the sections of the Board's Rules, Regulations, and Procedures that pertain to: Requirement to Upgrade Licenses, License Renewals, Continuing Education Requirements, Application Procedures, Supervision Requirements for Restricted License, Provisional Speech-Language Pathology License and Provisional Audiology License, Hearing Aid Dispensing, Disciplinary Action, and General Procedural Rules for Disciplinary Hearings.

§109. Requirements to Upgrade License

A. The Provisional Speech-Language Pathology or Provisional Audiology licensee who has not passed the examination at the time of initial licensure shall submit the following to upgrade his/her license status:

1. an official copy of a passing score on the Educational Testing Service area examination;
2. verification of nine months of full-time postgraduate professional employment/experience or its part-time equivalent in the field the license is held;
3. proof of supervision through date of upgrade (Form 100);
4. upgrade fee of \$25.

B. The Provisional Speech-Language Pathology or Provisional Audiology licensee who has not completed the nine months of postgraduate professional employment/experience at the time of initial licensure shall submit the following to upgrade his/her license status:

1. verification of nine months of full-time postgraduate professional employment/experience or its part-time equivalent in the field the license is held;
2. proof of supervision through date of upgrade (Form 100);
3. upgrade fee of \$25.

C. The Provisional Speech-Language Pathology Assistant shall submit the following to upgrade his/her license status:

1. proof of 225 supervised clinical practicum hours shall be on file in the board's office;
2. upgrade fee of \$25.

D. The Restricted Speech-Language Pathology or Restricted Audiology licensee who holds a master's degree or its equivalent in Speech-Language Pathology or Audiology shall submit the following documents to upgrade their license:

1. an official copy of a passing score on the Educational Testing Service area examination;
2. verification of nine months of post-graduate professional employment/experience or its part-time equivalent in the field in which the license is held;
3. proof of supervision through date of upgrade (Form 100);
4. upgrade fee of \$25.

E. Restricted Speech-Language Pathology licensees who hold a bachelor's degree who wish to change their status to a Provisional Speech-Language Pathology License shall submit an application for license and meet the requirements of R.S. 37:2659.B.

F. Speech-Language Pathology Assistant licensees who wish to change their status to a Provisional Speech-

Language Pathology License shall submit an application for license and meet the requirements of R.S. 37:2759.B.

G Postgraduate professional employment/experience which counts toward upgrading the license status will only be accepted from the date that the licensee's application was acknowledged to have been received by the board.

H. Audiologists who hold an audiology license but are completing the coursework or practicum requirements for registration as a dispenser shall follow the supervision requirements as specified in §123, and shall submit the board's Form 100 at the time of renewal. The board's Form 100 and the upgrade fee shall be submitted to upgrade license status.

I. It is the responsibility of the licensee to submit the documents and make a written request for upgrade of his/her license status. Licensees shall complete all supervision requirements consistent with the license held and immediately thereafter submit appropriate supervision forms to the board office along with a written request for license upgrade and the upgrade fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, L.R. 22:329 (May 1996), amended LR 27:197 (February 2001), LR 28:

§113. License Renewals

A. All licenses shall be renewed annually by June 30, to avoid delinquent renewal fees.

B. Initial licenses issued during the last quarter of the fiscal year, i.e., April, May, and June, will not be required to be renewed during that fiscal year. No continuing education hours will be required of the licensee for that period.

C. Licensees shall list on their renewal form the licensees and aides that they are supervising, i.e., provisional speech-language pathologists, provisional audiologists, restricted speech-language pathologists, restricted audiologists, speech-language pathology assistants, or provisional speech-language pathology assistants.

D. It is the licensee's continuing obligation to keep the board informed of his/her current mailing address.

E. Licensees shall participate in continuing professional education activities of at least 10 clock hours for each license period, July 1 through June 30, in accordance with §115.

F. Retired status is granted to speech-language pathologists and audiologists who are retired and do not practice speech-language pathology or audiology during the fiscal year, July 1 through June 30.

1. These licensees shall complete the affidavit on the continuing education report and submit it at the time of licensure renewal.

2. Retired licensees may retain their license by payment of the annual renewal fee. In order to resume the practice of speech-language pathology or audiology, retired licensees shall demonstrate completion of five clock hours of continuing education in the area of licensure for each year that retired status was maintained.

3. The licensee may submit the required five hours of continuing education each year he/she is retired or submit all of the hours the year he/she returns to work in the profession.

G Licensees who hold a license requiring supervision and who are not working in the field of speech-language pathology and/or audiology shall submit a notarized statement at the time of license renewal attesting to the fact that they did not work in the profession during the license period.

H. Delinquent Renewal

1. Delinquent requests for renewals will be accepted by the board through October 31, provided the Delinquent Renewal Fee is paid in accordance with §111.C and D, and the continuing education summary form is submitted.

2. A licensee whose license lapsed on November 1, and applies to reinstate prior to the following June 30, is required to submit a completed application, proof of continuing education, initial license fee and delinquent renewal fee in accordance with §111.A and D, and §115.

3. A licensee whose license lapsed on November 1, and applies for reinstatement after June 30, of the following year, is subject to the initial license fee and the requirements of §113.I.3.

I. Conditional Renewal

1. Licensees who previously held a full, valid license which was obtained under the grandfather clause of Act 260 of the 1978 Regular Session of the Louisiana Legislature, whether delinquent or lapsed, for a period not to exceed five years, shall be eligible for licensure renewal or reinstatement upon meeting the continuing education requirement and submitting the appropriate renewal fee in accordance with §111. If the license has lapsed for a period of more than five years, applicants shall reapply in accordance with the requirements enumerated in R.S. 37:2651 et seq., as amended by Act 892 of the 1995 Regular Session of the Louisiana Legislature.

2. Licensees who previously held a restricted license which was obtained under Act 260 of the 1978 Regular Session of the Louisiana Legislature, whether delinquent or lapsed, shall be eligible for licensure renewal or reinstatement, upon meeting the continuing education requirement and submitting the appropriate renewal fee as required in accordance with §111 and §115.

3. Licensees who allow their license to lapse (November 1) shall submit documentation of completion of 5 clock hours of continuing education in the area of licensure for each year that the license has lapsed in addition to meeting the license requirements enumerated in R.S. 37:2650 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, L.R.14:707 (October 1988), amended LR 22:351 (May 1996), LR 27:198 (February 2001), LR 28:

§115. Continuing Education Requirements

A. Each licensee shall complete continuing professional education activities of at least 10 clock hours each license period, July 1 through June 30.

B. Of the 10 hours, five shall be in the area of licensure, and five may be in areas related to the professions of audiology and speech-language pathology.

C. Audiologists who register as dispensing audiologists shall insure that at least three of the total 10 hours are in areas directly related to hearing aid dispensing, such as

business/practice management, marketing, aural habilitation/rehabilitation, diagnostic assessment, characteristics of hearing aids and their application, etc.

D. Dual licensees shall complete 15 hours per year with a minimum of five hours in speech-language pathology and five hours in audiology; the remaining five may be in areas related to the professions of audiology and speech-language pathology.

E. Continuing Education events occurring in the month of June, will be accepted for the collection period in which they occur or they may be counted in the following collection period which begins on July 1. Hours from one event may not be divided between two collection periods.

F. In the case of extenuating circumstances, when the licensee does not fulfill the continuing education requirements, the licensee shall submit a written request for extension to the board for consideration.

G. Continuing Education hours accrued during the applicant's grace period will be accepted.

H. The graduated scale for the collection of Continuing Education hours is based on the date an applicant receives his/her initial license.

License Received	Hours Required
April, May, June	0
January, February, March	3
October, November, December	6
July, August, September	10

I. Acceptable Continuing Education Sponsors and Activities

1. board-sponsored activities (maximum of 10 hours);
2. workshops in the area of communication disorders sponsored by individual professional practitioners and/or professional organizations such as American Audiological Association, American Speech-Language-Hearing Association, Louisiana Speech-Language-Hearing Association, Speech Pathologists and Audiologists in Louisiana Schools, Louisiana Society for Hearing Aid Specialists, etc. (maximum of 10 hours);
3. meetings of related professional organizations (maximum of five hours);
4. college courses in the area of licensure taken for credit or official audit (three semester hours or six quarter hours = 10 hours of continuing education);
5. distance learning (video conferences, telephone seminars and Internet courses sponsored by universities, schools, clinics, state agencies, hospitals, or related professional organizations) (maximum of five hours);
6. workshops and in-services that are university, school, clinic, hospital or state agency sponsored (maximum of five hours in a related area, maximum of 10 hours if in the area of licensure);
7. publication of articles in a refereed journal for the year in which they are published (five hours);
8. scientific or educational lectures to include presentations such as poster sessions given by the licensee (maximum of five hours);
9. the presenting licensee may count 1 1/2 times the value of a workshop the first time it is presented to allow for preparation time (Example: a three hour workshop = 4 1/2 hours.) The workshop will count for the actual hour value for each subsequent presentation of the same workshop;

10. teaching at the college level in the area of communication disorders is not acceptable.

J. Pre-Approval Policy

1. Pre-approval is required for continuing education events that do not meet the requirements as listed under §115.I.1-10, and pre-approval of continuing education events is required in those situations where it is unclear whether or not the topic is relevant to the profession or will further a professional's expertise in a particular area.

2. The licensee shall request pre-approval (minimum of 60 days in advance) of self-study activities, or other appropriate activities.

3. Licensees who elect to attend university classes/courses in speech-language pathology and/or audiology without payment of the university fee shall submit a self-study plan for pre-approval from the Louisiana Board of Examiners for Speech-Language Pathology and Audiology to receive continuing education credits.

4. Self-study activities in the area of communication disorders:

- a. audio or video tapes (maximum of five hours);
- b. reading of journal articles that contain self-examination questions at the end. Articles shall be submitted for pre-approval (maximum of five hours).

5. Publication of diagnostic and/or therapeutic materials (maximum of five hours).

K. Recording of Continuing Education Activities

1. Licensees shall record all continuing education activities on a tracking sheet provided by the board. The tracking sheet will be included with renewal notices and will cover the period of July 1 through June 30.

2. The board may request, through random audit, verification of clock hours submitted, including information regarding content and attendance. Approximately 10 percent will be audited each year as a means of evaluating compliance with the continuing education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, L.R.22:351 (May 1996), amended LR 27:199 (February 2001), LR 28:

§117. Application Procedures

A. An application for a license to practice speech-language pathology and/or audiology in Louisiana shall be made on forms supplied by the board.

B. Official transcripts shall be sent to this board directly from the college or university from which the academic requirements were earned.

C. Documentation of supervised clinical practicum hours shall be submitted on university forms and signed by a clinical supervisor or director.

D. The initial license fee submitted to this board shall be paid by certified check, cashier's check or money order. Only renewal fees may be paid by personal check.

E. Speech-language pathologists, assistants and/or audiologists who have held a license in another state, shall provide official verification of their licensure status in each state.

F. Documentation of nine months of postgraduate professional employment/experience shall be submitted directly to the board in writing on official agency letterhead.

G Documentation of nine months of postgraduate professional employment/experience, a passing score on NTE, and verification of supervised clinical practicum hours may be waived for individuals who submit verification that they hold the Certificate of Clinical Competence from the American Speech-Hearing-Language Association.

H. Postgraduate professional employment/experience which counts toward upgrading the license status, will only be accepted from the date that a licensee's application is acknowledged to have been received by the board.

I. While an application for a license is being considered by the board, the applicant may be employed as a speech-language pathologist, audiologist or speech-language pathology assistant for a period not longer than 60 days from the date that their application is acknowledged to have been received by the board. In no event may the applicant be employed as a speech-language pathologist, audiologist or speech-language pathology assistant after the application has been denied.

J. An applicant may be granted only one 60-day period to work while his/her initial application is being processed. No additional grace period may be granted to an applicant.

K. When there is probable cause to believe that an applicant practiced illegally in Louisiana as a speech-language pathologist, speech-language pathology assistant and/or audiologist, the board may offer a consent agreement and order which will grant the individual a license, subject to the following specified terms and conditions.

1. Within 90 days of the date of the consent agreement and order, the applicant shall take and pass an open book examination regarding R.S. 37:2650-2666, the board's Rules, Regulations and Procedures, and Ethical Questions or within 10 months of the date of the consent agreement and order, the applicant shall complete not fewer than five hours of continuing education in the area of ethics.

a. Open book test fee shall be \$30. The retest fee shall be \$10 per section.

b. Applicants have 4 1/2 hours to complete all sections of the test.

c. The open book examination or any section may be re-taken anytime within the 90 days.

d. The applicant may be required to appear before the board following completion of the continuing education in ethics to answer questions regarding the continuing education.

e. The consent order and agreement shall be published in the LBESPA newsletter.

f. If the applicant fails to successfully complete all requirements set forth in the above paragraphs within 90 days, the applicant's license shall be suspended without further notice until the board receives and accepts documentation of the applicant's completion of the consent order and agreement requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 22:352 (May 1996), amended LR 27:199 (February 2001), LR 28:

§119. Supervision Requirements for Restricted License, Provisional Speech-Language Pathology License and Provisional Audiology License

A. Restricted Licensees, Provisional Speech-Language Pathology Licensees and Provisional Audiology Licensees are required to undergo direct supervision by a licensed speech-language pathologist or audiologist, licensed in the area in accordance with R.S. 37:2659.A. An individual may not be supervised by a provisional licensee, restricted licensee, or assistant licensee.

B. Speech-Language Pathologists or Audiologists may share the supervision responsibility for Provisional or Restricted licensees, but each supervising speech-language pathologist or audiologist shall complete and submit the necessary supervision forms.

C. The direct supervision of the licensee, whether employed full-time or part-time, shall include 12 monitoring activities annually.

1. At least four shall be on-site, in-view observations divided between the areas of diagnostics and management. Alternative methods may include conferences, audio and videotape recordings, review of written records, staffings and discussions with other persons who have participated in the licensee's training.

2. For twelve-month employees, one on-site, in-view observation shall be conducted each quarter.

3. For nine-month employees, two on-site, in-view observations shall occur in each semester.

D. Documentation of supervision shall be submitted annually at the time of license renewal on Form 100 provided by the board.

E. Licensees shall complete all supervision requirements consistent with the license held and immediately thereafter submit appropriate supervision forms to the board office along with a written request for license upgrade and the upgrade fee.

F. Licensees who are not working in the field of speech-language pathology and/or audiology and who hold a license requiring supervision, shall submit a notarized statement at the time of license renewal attesting to the fact that they did not work in the profession during the license period.

G. All costs of supervision shall be borne by the licensee or his/her employer, but in no event will those costs be borne by the board.

H. When supervision requirements have not been met in accordance with §119.C.1 and 2., licensees shall complete additional months of supervision to replace months of incomplete supervision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:352 (May 1996), LR 27:199 (February 2001), LR 28:

§123. Hearing Aid Dispensing

A. Audiologists who dispense hearing aids shall meet the coursework and practicum requirements for dispensing as specified in R.S. 37:2650, et seq., and shall register their intent to do so at the time of each license renewal.

1. Dispensing audiologists shall pay an initial registration fee of \$25 and an annual renewal fee of \$10 in addition to the fees charged for licensure renewal.

2. Dispensing audiologists shall affix an annual registration seal to the displayed audiology license.

B. Audiologists who hold a Provisional Audiology License shall be supervised by a licensed, registered dispensing audiologist while completing the postgraduate professional employment/experience requirements for full licensure.

C. Audiologists who hold an audiology license but are completing the coursework or practicum requirements for registration as a dispenser shall follow the supervision requirements as specified in §119 and shall submit the board's Form 100 at the time of renewal. The board's Form 100 shall be submitted to upgrade the license status.

D. Audiologists who dispense hearing aids shall maintain annual calibration records on audiometric equipment.

E. Audiologists who dispense hearing aids shall meet the minimum continuing education requirements for license renewal with at least three of the required 10 hours in areas specifically related to hearing aids and/or the dispensing of hearing aids.

F. Audiologists who dispense hearing aids shall comply with the following guidelines.

1. Audiologists shall conduct a pre-purchase evaluation that includes:

- a. a case history;
- b. an otoscopic examination;
- c. a basic audiological test battery, including:
 - i. pure tone air and bone conduction testing;
 - ii. speech reception threshold;
 - iii. word recognition testing;
 - iv. appropriate tolerance testing;
 - v. middle ear measurements when indicated.

2. Audiologists shall provide the consumer with a minimum 30-day trial period on all new hearing aids purchased.

3. Audiologists shall inform the consumer of the total cost of the hearing aid, including any fees for returning the aid at the end of the trial period.

4. Audiologists shall conduct a post-fitting evaluation that includes functional gain measurements and/or real ear measurements unless the patient's physical conditions prohibit accomplishment of these procedures.

5. Audiologists who engage in the fitting or selling of hearing aids shall deliver to each person supplied with a hearing aid, a bill of sale which shall contain the dispenser's signature, address and license number, together with a description of the make, model and serial number of the hearing aid and the amount charged. The bill of sale shall also indicate whether the hearing aid is new, used, or reconditioned.

G. Audiologists who meet the qualifications for licensure as an audiologist and who were exempt under R.S. 37:2464.A as part of their employment with a state health agency may register as dispensing audiologists by presenting

proof of employment and dispensing experience in that job setting.

H. Audiologists who meet the qualifications for licensure as an audiologist but lack the coursework and practicum requirements necessary for registration as a dispenser may fulfill the requirements by completing nine months of postgraduate professional employment/experience under the supervision of a licensed dispensing audiologist, and by proof of the successful completion of a study course by the National Institute for Hearing Instruments Studies, or its equivalent. Equivalency for National Institute for Hearing Instruments Studies is defined as:

1. an individualized program of study that may include:

- a. hearing aid fitting courses sponsored by hearing aid manufacturers;
- b. university programs; or
- c. programs of independent study;

2. any individualized program of study shall be submitted to the board a minimum of 60 days in advance for pre-approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 22:353 (May 1996), amended LR 27:201 (February 2001), LR 28:

§125. Disciplinary Actions

A. This board may refuse to issue, may suspend or revoke a license for the practice of speech-language pathology or audiology or otherwise discipline an applicant or licensee, upon finding that the applicant or licensee has violated any provisions of R.S. 37:2650, et seq., or any of the rules or regulations promulgated by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), LR 22:354 (May 1996), LR 28:

§507. General Procedural Rules For Hearings

A. The board is empowered to issue subpoenas upon receipt of a written request from the licensee or attorney general at least 15 days in advance of any scheduled hearing. The board shall issue said subpoenas upon receipt of said written request and receipt of any and all fees for subpoenas as provided for in §111.R promulgated by the board.

B. The board may petition a court of competent jurisdiction for a contempt rule to show cause when there is a failure to comply with a subpoena.

C. The board shall elect from its membership a person to act as presiding officer of the hearing. The presiding officer shall have the power to: regulate the discovery process; hold pre-hearing conferences for the simplification or settlement of issues; convene the hearing; place witnesses under oath; take action necessary to maintain order; rule on motions and procedural questions arising prior to, during or after the hearing; rule on objections and admissibility of evidence; call recesses or adjourn the hearing; and prescribe and enforce general rules of conduct and decorum. The other board members may not delegate their decision making and fact finding duties to the presiding officer, nor shall the presiding officer have any greater weight in the decision

making process than any other board member. The board's findings of fact and conclusions of law shall be signed by a majority of the hearing panel finding those facts and conclusions of law. Any member of the hearing panel disagreeing with those findings and conclusions may also file a dissent in the record with her/his decisions therefore.

D. Any board member having reason to believe that s/he is biased against one of the parties in the proceeding, or has a personal interest in the outcome of the proceeding, shall immediately notify the other board members and request to be disqualified. Any party to a hearing may file with the board an affidavit requesting a disqualification of a board member from the formal hearing because of the board member's bias or personal interest. As soon as possible, but no later than the beginning of the hearing, the majority of the board shall pass upon any request for disqualification. The concerned board member shall not participate in the deliberation of the board on the issue of disqualification, and shall not vote on the issue. If the board determines that there is no merit to the request for disqualification, the board shall proceed with the hearing. Any doubt concerning the fitness of a board member shall be resolved in favor of disqualification. In the event disqualification occurs, the board shall immediately request the governor to appoint a board member pro tem to replace the disqualified member for the hearing in progress only.

E. The parties to the hearing are urged, but not required, to confer prior to the hearing, through their respective counsel, or personally, to attempt to reduce or simplify the issues to be heard. The board shall honor any stipulations arrived at between the parties as proven facts at the hearing. The purpose at the pre-hearing conference is to insure that the hearing is not unusually delayed by receiving testimony or other evidence on matters which are not seriously in dispute between the parties.

F. The procedures to be followed in conducting the hearing governing the order of the proceedings are contained in Chapter 12 of the *Disciplinary Action Manual For Occupational Licensing Boards* prepared by the Louisiana Department of Justice, 1979, through the office of the attorney general. A copy of the chapter will be provided to any interested party involved with the hearing upon receipt by the board of a written request therefore.

G. Parties may conduct discovery pursuant to the Administrative Procedure Act, R.S. 49:950, et seq. Said discovery shall not unduly delay the hearing before the board.

H. For good cause shown, the board has discretion to extend or continue the time set for the hearing for such reasons as ill health, inability to obtain counsel, the complexities of the case, or such other matters deemed by the board to constitute good cause.

I. Upon request by either the licensee or the attorney general, witnesses shall be sequestered and not allowed in the hearing chambers during the hearing or permitted to discuss their testimony with other witnesses prior to the conclusion of the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, LR 17:374 (April, 1991),

amended LR 22:358 (May 1996), LR 27:201 (February 2001), LR 28:

Interested persons may submit written comments to Suzanne L. Pevey, Administrator, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, 18550 Highland Road, Suite B., Baton Rouge, Louisiana 70809. She is responsible for responding to inquiries regarding these proposed amendments. The deadline for the receipt of all written comments is 4:30 p.m., on December 28, 2001.

Glenn M. Waguespack, L-AUD
Chairperson

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Speech-Language Pathology and Audiology

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

The Louisiana Board of Examiners for Speech-Language Pathology and Audiology estimates that it will cost approximately \$450.00 to implement the proposed amendments to the Board's Rules, Regulations and Procedures.

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

The implementation of the proposed rules will not have an effect on revenue collections of state or local governmental units. The proposed rule changes are for clarification and to correct codification errors in the rules that were promulgated and adopted on January 5, 2001.

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

There will be no cost to directly affected persons based on the proposed amendments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment related to the proposed rules.

Suzanne L. Pevey
Administrator
0110#022

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Medical Examiners

Integrative and Complementary Medicine (LAC 46:XLV.Chapter 71)

Notice is hereby given, in accordance with R.S. 49:953, that the Louisiana State Board of Medical Examiners (Board), pursuant to the authority vested in the Board by the Louisiana Medical Practice Act, R.S. 37:1261-1292, and particularly R.S. 37:1270(B), intends to adopt rules governing the utilization of integrative or complementary medicine, LAC 46:XLV, Subpart 3, Chapter 71, §§7101-7111. The proposed rules define integrative or complementary medicine, distinguish it from conventional medicine practices and authorize a physician to exercise professional judgment as to whether and when it should be utilized in the diagnosis or treatment of a patient. Pursuant to

such rules utilization of integrative or complementary medicine may be undertaken by a physician or an appropriately trained individual working under physician on-site supervision and direction, for whom the physician retains professional responsibility to the patient. The proposed rules also establish an advisory committee to assist the Board on a variety of issues respecting integrative or complementary medicine.

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

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 3. Practice

Chapter 71. Integrative And Complementary Medicine

Subchapter A. General Provisions

§7101. Scope of Chapter

A. The rules of this Chapter govern physician use of integrative or complementary medicine in the treatment of patients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 28:

§7103. Definitions

A. As used in this Chapter, unless the content clearly states otherwise, the following terms and phrases shall have the meanings specified.

Board the Louisiana State Board of Medical Examiners.

Controlled Substance any substance defined, enumerated or included in federal or state regulations or statute 21 CFR 1308.11-15 or R.S. 40:964, or any substance which may hereafter be designated as a controlled substance by amendment or supplementation of such regulations or statute.

Conventional or Conventional Medicine diagnostic methods or therapies offered or employed by a physician, or under his on-site supervision and direction, in the diagnosis, prevention or treatment of any illness, disease or condition which are generally accepted and recognized as falling within the standard of care in the course of medical practice based upon medical training, experience and peer reviewed scientific literature.

Integrative or Complementary Medicine diagnostic methods or therapies offered or employed by a physician, or under his on-site supervision and direction, in addition or as an alternative to conventional medicine methods or therapies, in the diagnosis, prevention or treatment of any illness, disease or condition which do not, in the judgment of the physician, pose a safety risk for a patient that is unreasonably greater than conventional medicine methods or therapies and provided there exists a reasonable probability for diagnostic or therapeutic effectiveness in its intended use. Integrative or complementary medicine does not include the use of controlled substances in the treatment of patients suffering from chemical dependency.

On-Site Supervision and Direction medical functions or procedures performed under physician supervision and direction by an appropriately trained and qualified non-physician in the course and scope of his or her employment

or contractual relationship with a physician, when such physician is physically present on the premises at all times that such non-physician is on duty and retains full responsibility to patients and the board for the manner and results of all services rendered. On-site supervision and direction shall not be construed under any circumstances to permit a non-physician to act independently of a physician or exercise independent medical judgment in rendering a diagnosis, prescribing medication or in implementing modalities of diagnosis or treatment.

Physician a person possessing a current license issued by the board to practice medicine in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 28:

§7105. General Conditions/Prohibitions

A. The use of integrative or complementary medicine for the diagnosis or treatment of any illness, disease or condition, constitutes legitimate medical therapy when provided in the course of professional medical practice, complies with the standard of care applicable to conventional medicine practitioners, and when fully documented in the patient's medical record. Any physician utilizing integrative or complementary medicine shall do so in strict compliance with the rules enumerated in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 28:

§7107. Use of Integrative or Complementary Medicine; Limitations

A. Requisite Prior Conditions. Any physician offering or utilizing integrative or complementary medicine shall comply with the following rules.

1. Evaluation of the Patient. Prior to offering integrative or complementary medicine a physician shall perform an evaluation of the patient that shall include but not be limited to any conventional methods of diagnosis which, in the judgment of the physician, are deemed necessary or appropriate to the condition of the patient. Such an evaluation shall include:

- a. a relevant medical history;
- b. an appropriate physical examination; and
- c. a review of the results of any relevant diagnostic studies or therapies undertaken or previously attempted.

2. Medical Diagnosis. A medical diagnosis shall be established by the physician and documented in the patient's medical record, which indicates the nature of the patient's illness, disease, condition or other reason for which treatment is being sought if determinable.

3. Treatment Plan. A treatment plan by which progress or success can be evaluated with stated objectives shall be formulated by the physician which is tailored to the individual needs of the patient and documented in the patient's medical record. Such plan shall include documentation of:

- a. whether conventional or complementary methods of diagnosis or treatment have been considered, are being undertaken or have been attempted without adequate or reasonable success or a statement that the patient has refused such methods;

b. consideration for the need for conventional testing, consultation, referral or treatment when indicated;

c. the intended role of integrative or complementary medicine within the overall plan; and

d. whether integrative or complementary medicine offered or utilized could interfere with any ongoing conventional therapy.

4. Informed Consent. A physician shall inform a patient or his guardian of each of the following, which discussions shall be noted in some form in the patient's record:

a. his education, experience and credentials regarding any integrative or complementary medicine which is recommended; and

b. the risks and benefits of both conventional medicine and integrative or complementary medicine incorporated within each treatment plan.

B. A physician should consider informing the patient that his recommendation for the use of a particular drug, substance or medical device for diagnosis or treatment of the patient's illness, disease or condition is investigational, experimental, new, unconventional or unproven.

C. Initiation of Integrative or Complementary Medicine. Upon completion and satisfaction of the conditions prescribed in §7107.A.-B, and upon a physician's judgment that integrative or complementary medicine is warranted for purposes of diagnosis or treatment, a physician shall adhere to the following rules.

1. Assessment of Treatment Efficacy and Monitoring. Patients shall be seen by the physician at intervals appropriate to the danger or safety risk of the diagnostic methods or therapy provided, to assess the efficacy thereof, assure that all treatment recommended or prescribed remains indicated and evaluate the patient's progress toward treatment objectives and any adverse effects. During each visit attention should be given to the need for additional methods of diagnosis, consultation, referral or treatment. Lack of progress from integrative or complementary medicine therapy, or a worsening of symptoms, signs or prognosis, shall indicate the need to revise the treatment plan.

2. Consultation. Physicians should be willing to refer a patient as necessary for additional evaluation or treatment by conventional or integrative or complementary methods, particularly in those patients who are at risk from a potentially life-threatening illness, disease or condition.

3. Medication/Medical Devices Employed. A physician shall document in the patient's medical record the medical rationale for the use of any medication or substance, including a controlled substance, and any medical device employed in the diagnosis or treatment of a patient's illness, disease or condition. The use of controlled substances for the treatment of obesity and chronic or intractable pain shall be in conformity with §6901 et seq. and §6915 et seq., respectively, of the board's rules.

4. Treatment Records. A physician shall document and maintain in the patient's medical record, accurate and complete records of history, physical and other examinations and diagnostic evaluations, consultations, laboratory and diagnostic reports, treatment plans and objectives, medications, including controlled substances, informed consents, periodic assessments and the results of all

conventional and integrative or complementary medicine therapies utilized.

§7109. Effect of Violation

A. Any violation or failure of compliance with the provisions of this Chapter, §§7101-7107, shall be deemed unprofessional conduct and conduct in contravention of the board's rules, in violation of R.S. 37:1285(A)(13) and (30) respectively, as well as violation of any other applicable provision of R.S. 37:1285(A), providing cause for the board to suspend, revoke, refuse to issue, or impose probationary or other restrictions on any license held or applied for by a physician to practice medicine in the state of Louisiana culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 28:

Subchapter B. Integrative or Complementary Medicine Advisory Committee

§7111. Organization, Authority and Responsibilities

A. Constitution. An Integrative and Complementary Medicine Advisory Committee (the "advisory committee") to the board is hereby constituted to be composed, appointed and to have such functions as hereinafter provided.

B. Composition and Qualifications. The advisory committee shall be comprised of up to five physicians each of whom shall be in good standing with the board, have practiced and resided within the state of Louisiana for not less than one year, possess experience in and have specialized in integrative or complementary medicine for not less than three years.

C. Appointment; Term of Service. Of the board's initial appointments, two members of the advisory committee will be appointed to serve terms expiring on the last day of the year of appointment with the remaining members to serve terms expiring on the last day of the year succeeding the year of appointment. Thereafter, each member of the advisory committee shall serve a term of two years or until his or her successor is appointed. Advisory committee members shall be eligible for reappointment. All members of the advisory committee shall serve and be subject to removal at any time at the pleasure of the board. Members appointed to the advisory committee to fill a vacancy occurring other than by expiration of the designated term shall serve for the unexpired term. Other than the initial appointments provided for herein, board appointments to the advisory committee shall be effective when made with respect to appointments for unexpired terms and otherwise shall be effective as of the first day of the year following the date of appointment.

D. Functions and Responsibilities of the Committee. The advisory committee is responsible and authorized by the board to:

1. provide advice and recommendations to the board respecting the modification, amendment and supplementation of rules and regulations, standards of care and policies and procedures respecting integrative or complementary medicine;

2. advise, assist and provide the board with such information and expertise as it may request and upon which it may rely, with respect to investigative and/or disciplinary proceedings affecting physicians utilizing integrative or complementary medicine;

3. serve as a liaison between the board and physicians practicing integrative or complementary medicine;

4. perform such other functions and provide such additional advice and recommendations as may be requested by the board; and

5. receive reimbursement for attendance at board meetings and for other expenses when specifically authorized by the board.

E. Confidentiality. In discharging the functions authorized under §7111, the advisory committee and the individual members thereof, when acting within the scope of such authority, shall be deemed agents of the board. All information obtained by the advisory committee members pursuant to §7111.D of this Chapter or otherwise shall be considered confidential. Advisory committee members are prohibited from communicating, disclosing, or in any way releasing to anyone, other than the board, its employees or agents, any information or documents obtained when acting as agents of the board without first obtaining written authorization of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 28:

Interested persons may submit written data, views, arguments, information or comments on the proposed rules until 4:00 p.m., December 21, 2001, to John B. Bobear, M.D., Interim Executive Director, Louisiana State Board of Medical Examiners, at P.O. Box 30250, New Orleans, LA, 70190-0250 (630 Camp Street, New Orleans, LA, 70130).

John B. Bobear, M.D.
Interim Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Integrative and Complementary Medicine

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

Other than the rule publication costs, the total of which are estimated to be \$800 over the years FY 2001 and FY 2002, the proposed rules will not result in costs or savings to the Board of Medical Examiners or any state or local governmental unit.

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

Because the proposed rules affect only the scope of application of substantive regulations which do not affect board revenues, it is not anticipated that the proposed rules will have any effect on the revenue collections of the board or of any other state or local governmental unit.

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

Physicians may exercise professional judgment with respect to the use of integrative or complementary modalities for diagnosis or treatment of patients. Physicians, and patients who desire to receive such modalities on their physician's advice, may be affected by the proposed rules. It is not anticipated, however, that the proposed rules will have any material effect on the costs of such groups attributable to changes in workload or additional paperwork, nor will they result in any costs and/or economic benefits to directly affected persons.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rules will have any impact on competition and employment in either the public or private sector.

John B. Bobear, M.D.
Interim Executive Director
0111#070

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Medical Examiners

Temporary Permits for Athletic Trainers (LAC 46:XLV.3162)

Notice is hereby given in accordance with R.S. 49:953 that the Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by the Louisiana Medical Practice Act, R.S. 37:1261-1292, and particularly R.S. 37:1270(B), as well as the Athletic Trainers Law, R.S. 37:3301-3312, and particularly R.S. 3:3303.A(4), intends to amend its administrative rules governing athletic trainers to provide for the issuance of temporary permits, under specified conditions, which allow an athletic trainer to work under the supervision and direction of a certified athletic trainer pending certification by the Board, LAC 46:XLV, Subpart 2, Chapter 31, Subchapter G, §3162. Such amendments would allow the board to issue a temporary permit to an applicant for certification as an athletic trainer, otherwise completely qualified for certification, who is scheduled to take or awaiting the results of the examination required for the issuance of certification, whose application is pending consideration by the board, to one under consideration for an H1 or equivalent visa by the United States Immigration and Naturalization Service, or in such other instances as the board may deem proper.

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

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 2. Licensing and Certification

Chapter 31. Athletic Trainers

Subchapter G. Certificate Issuance, Termination, Renewal, Reinstatement

§3162. Restricted Certificates

A. General. With respect to applicants who do not meet or possess all of the qualifications and requirements for certification required by this Chapter the board may, in its discretion, issue such temporary restricted certificates as are in its judgment necessary or appropriate to its responsibilities under law. Temporary restricted certificates shall be designated and known as permits.

B. Effect of Permit. A permit entitles the holder to engage in the practice of athletic training in the state of Louisiana only for the period of time specified by such permit and creates no right or entitlement to certification or renewal of the permit after its expiration.

C. Types of Permits. The types of permits that the board may consider issuing are enumerated in the following paragraphs of this section. Other permits may be issued by the board upon such terms, conditions, limitations, or restrictions as to time, place, nature, and scope of practice as deemed, in its judgment, necessary or appropriate to the particular circumstances of individual applicants.

D. Limitations. Athletic trainers holding any permit issued under this Section may practice athletic training only under the supervision and direction of a certified athletic trainer who holds certification issued by the board, who shall provide such on-premises supervision and direction to the permit holder as is adequate to ensure the safety and welfare of athletes. Such supervision and direction shall be deemed to be satisfied by on-premises direction and supervision for not less than one hour each week.

E. Permit Pending Application for Visa. The board may issue a permit to practice athletic training to an applicant who is otherwise completely qualified for certification as an athletic trainer, save for possessing an H1 or equivalent visa, provided that the applicant has completed all applicable requirements and procedures for issuance of certification or a permit and is eligible for an H-1 or equivalent visa under the rules and regulations promulgated by the United States Immigration and Naturalization Service (INS).

1. A permit issued under §3162.E shall expire and become null and void on the earlier of:

- 90 days from the date of issuance of such permit;
- 10 days following the date on which the applicant receives notice of INS action granting or denying the applicant's petition for an H-1 or equivalent visa; or
- the date on which the board gives notice to the applicant of its final action granting or denying issuance of certification to practice athletic training.

2. The board may in its discretion extend or renew, for one or more additional 90-day periods, a permit that has expired pursuant to §3162.E1.a in favor of an applicant who holds such a permit and who has filed a petition for an H-1 or equivalent visa with the INS, but whose pending petition has not yet been acted on by the INS within 90 days from issuance of such permit.

F. Permit Pending Examination/Results. The board may issue a permit to practice athletic training to an applicant who has taken the examination required by §3107.A.4 but whose scores have not yet been reported or to an applicant scheduled to take the examination at its next administration who has not previously failed such examination, to be effective pending the reporting of such scores to the board, provided that the applicant possesses and meets all of the qualifications and requirements for certification required under this Chapter, save for having taken, passed, or received the results of the examination specified in §3107.A.4.

1. A permit issued under §3162.F shall expire, and thereby become null, void and to no effect on the earlier of any date that:

- the board gives written notice to the permit holder that he has failed to achieve a passing score on the certification examination;
- the board gives written notice to the permit holder pursuant to §3143.C that it has probable cause to believe that he has engaged or attempted to engage in

conduct which subverted or undermined the integrity of the examination process;

- the permit holder is issued a certificate to practice athletic training pursuant to §3153 of this Chapter; or

- the holder of a permit issued under §3162.F fails to appear for and take the certification examination for which he has registered.

2. The board may, in its discretion, extend or renew a permit which has expired pursuant to §3162.F.1 in favor of an applicant who makes written request to the board and evidences to its satisfaction a life-threatening or other significant medical condition, financial hardship or other extenuating circumstance.

G Permit Pending Application. The board may issue a permit to practice athletic training, effective for a period of 60 days, to an applicant who has made application to the board for certification as an athletic trainer, who provides satisfactory evidence of having successfully completed the examination required by §3107.A.4 and who is not otherwise demonstrably ineligible for certification under R.S. 37:3307.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, R.S. 37:1270, R.S. 37:3301-3312 and R.S. 37:3303.A(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 28:

Interested persons may submit written data, views, arguments, information or comments on the proposed rule amendments until 4:00 p.m., December 21, 2001, to John B. Bobear, M.D., Interim Executive Director, Louisiana State Board of Medical Examiners, at P.O. Box 30250, New Orleans, LA 70190-0250 (630 Camp Street, New Orleans, LA 70130).

John B. Bobear, M.D.
Interim Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Temporary Permits for Athletic
Trainers**

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

Other than the rule publication costs, the total of which are estimated to be \$400 in FY 2001 and FY 2002, it is not anticipated that implementation of the proposed rule amendments will result in any costs to the board or any other state or local governmental unit. The board does not anticipate that adoption of the proposed amendments will result in either an increase or reduction in workload or any additional paperwork.

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

The proposed rule amendments will not affect board revenues, nor will any increase or decrease in revenues result from the proposed rule amendments.

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

Certain applicants who seek certification to practice athletic training will benefit from the availability of a temporary restricted certificate ("permit") to practice under supervision and direction. It is not anticipated, however, that the amendments will have any material economic affect on costs of

such groups attributable to changes in workload or additional paperwork.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rule amendments will have any impact on competition and employment in either the public or private sector.

John B. Bobear
Interim Executive Director
0111#069

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Licensed Professional Vocational
Rehabilitation Counselors Board of Examiners

Vocational Rehabilitation Counselors
Professional Ethics
(LAC 46:LXXXVI.502, 503,
705, 1101, Chapters 16 and 17)

Notice is hereby given, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., that the Louisiana Licensed Professional Vocational Rehabilitation Counselors Board of Examiners pursuant to the authority vested in it by R.S. 37:3445, intends to amend the Professional and Occupational Standards pertaining to Vocational Rehabilitation Counselors in order to make such rules consistent with changes in statutory law, and in order to adopt ethical standards and rules and procedures applicable to enforcement of ethical standards. The proposed amendments to the rules are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LXXXVI. Vocational Rehabilitation Counselors

Chapter 5. License and Practice of Vocational
Rehabilitation Counseling

§501. License of Title and Practice as Stated in R.S.
37:3450

A. No person shall assume or use the title or designation "Licensed Professional Vocational Rehabilitation Counselor" or engage in the practice of vocational rehabilitation counseling unless he has in his possession a valid license issued by the board under the authority of this chapter. Only persons in possession of a valid license issued by the board under the authority of this chapter may perform vocational rehabilitation services.

B. Except as provided in R.S. 37:3452, no person shall perform the services of a vocational rehabilitation counselor unless he has in his possession a valid license issued by the board under the authority of this Chapter.

C. Except as provided in R.S. 37:3452, no person shall hold himself out as an expert of vocational rehabilitation services unless he has in his possession a valid license issued by the board under the authority of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 15:277 (April 1989), amended by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§503. Definitions

A. For purposes of this rule, the following definitions will apply:

* * *

Practice of Rehabilitation Counseling means offering or offering to individuals, groups, organizations, or the general public rehabilitation services in private practice for compensation involving the application of principles, methods, or procedures of the rehabilitation counseling profession which include but are not limited to:

1. - 2. ...

3. *Vocational Rehabilitation Services* includes, but is not limited to, vocational assessment, vocational counseling, education, and training services, including on-the-job training, self-employment plans, job analysis, and job placement. For purposes of this Chapter, "vocational assessment" includes, but is not limited to, the administration, interpretation, and use of single scale screening tests of intelligence and tests of education, achievement, personal traits, interests, aptitudes, abilities, language, adaptive behavioral tests, and symptom screening checklist, solely to define vocational goals and plan actions as related to rehabilitation concerns, educational progress, and occupations and careers.

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3443 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 15:277 (April 1989), amended by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 19:1569 (December 1993), LR 28:

Chapter 7. Requirements for Licensure and Renewal
of License

§705. Renewal

A. A license issued pursuant hereto shall be renewed annually by payment of the renewal fee every year prior to August first, and by meeting the requirement that 30 clock hours of continuing education be obtained during a two-year period in an area of professional rehabilitation counseling as approved by CRC or by the board. The chairman shall issue a document renewing the license for a term of one year. Beginning August 1, 1994, all persons holding a license will begin a new two year period for clock hours. Anyone licensed during the year out of sync with the Board fiscal year will be required to acquire a pro rata share of hours as determined by the board for their first two year period. All license holders will be required to renew every year with their training hours acquired over a two year period. Renewal must be completed within 60 days of the August first deadline for each renewal year. If the renewal is not submitted within that time frame, the license shall lapse. and the applicant must meet all existing licensure requirements to be issued a license.

B. A licensee may request retirement status if he is not going to engage in private practice for the next year or longer. Under retirement status the licensee would not be required to submit continuing education credits. If a retiree wishes to reactivate, he would need to do the following:

- 1. notify the board;
- 2. complete an application for reactivation;
- 3. pay the existing renewal fee;

4. begin documentation of continuing education hours.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3447.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 15:277 (April 1989), amended by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 19:1571 (December 1993), LR 28:

Chapter 11. License

§1101. Denial, Revocation, or Suspension of License

A. The board, by affirmative vote of at least four of its five members, shall withhold, deny, revoke, or suspend any license issued or applied for in accordance with the provisions of R.S. 37:3441-3452 or otherwise discipline a person holding such a license upon proof that the applicant or licensee:

A1. - 2. ...

3. is abusing drugs or alcohol an extent or in a manner dangerous to any other person or the public, or to an extent that said use impairs his ability to engage in the practice of rehabilitation counseling or perform rehabilitation counseling services or perform vocational rehabilitation services;

4. has impersonated another person holding a license issued by the Board or allowed another person to use his license;

A.5. - D. ...

E. The board is authorized to suspend a license issued by it for a period not exceeding two years. At the end of this period, the board shall re-evaluate the suspension and may recommend to the chairman the reinstatement or revocation of the license. A person whose license has been revoked may apply for reinstatement after a period of not less than two years from the date such denial or revocation is legally effective, the board may, upon favorable action by a majority of the board members present and voting, recommend such reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 15:277 (April 1989), amended by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

Chapter 16. Code of Professional Ethics for Licensed Rehabilitation Counselors

§1600. General

A. Licensed rehabilitation counselors are committed to facilitating the personal, social, and economic independence of individuals with disabilities. In fulfilling this commitment, licensed rehabilitation counselors work with various people, programs, institutions, and service delivery systems. Licensed rehabilitation counselors recognize that their actions (or inaction) can either aid or hinder clients in achieving their rehabilitation objectives, and they accept this responsibility as part of their professional obligations. Licensed rehabilitation counselors may be called upon to provide various kinds of assistance including: counseling; vocational explorations; vocational assessment and testing; evaluations of social, medical, vocational, and psychiatric information; job placement and job development activities;

forensic assessments; and other types of rehabilitation services. They are required to do so in a manner that is consistent with their education and experience. Moreover, licensed rehabilitation counselors must demonstrate their adherence to ethical standards and ensure that the standards are vigorously enforced. The Code of Professional Ethics for Licensed Rehabilitation Counselors (henceforth referred to as the Code) is designated to facilitate the achievement of these goals.

B. The primary obligation of licensed rehabilitation counselors is to their clients (defined in the Code as individuals with disabilities who are receiving services from licensed rehabilitation counselors). The objective of the Code is to promote public welfare by specifying and enforcing ethical standards of behavior expected of licensed rehabilitation counselors. Accordingly, the Code contains two kinds of standards: Canons and Rules of Professional Conduct.

C. The Canons are general standards of an aspirational and inspirational nature that reflect the fundamental spirit of caring and respect which professionals share. They are maxims designed to serve as models of exemplary professional conduct. The Canons also express general concepts and principles from which the more specific Rules are derived. Unlike the Canons, the Rules are exacting standards intended to provide guidance in specific circumstances.

D. Licensed rehabilitation counselors who violate the Code are subject to disciplinary action. A violation of a Rule is interpreted as a violation of the applicable Canon and the general principles it embodies. Since the use of Licensed Rehabilitation Counselor (LRC) designation is a privilege granted by the Louisiana Licensed Professional Vocational Rehabilitation Counselors Board of Examiners (LLPVR), the Board reserves unto itself the power to suspend or revoke this privilege or to impose other penalties for a Rule violation. Disciplinary penalties are imposed as warranted by the severity of the offense and its attendant circumstances. All disciplinary actions are undertaken in accordance with published procedures and penalties that are designed to ensure proper enforcement of the Code within a framework of due process and equal protection under the law.

E. When there is reason to question the ethical propriety of specific behavior, individuals are encouraged to refrain from such behavior until the matter has been clarified. LRCs who need assistance in interpreting the Code should write to the Board to request an advisory opinion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1601. Canon 1: Moral And Legal Standards

A. Licensed rehabilitation counselors shall behave in a legal, ethical, and moral manner in the conduct of their profession, maintaining the integrity of the Code and avoiding any behavior that would cause harm to others. The Rules of Professional Conduct governing compliance with this Canon are as follows.

1. Licensed rehabilitation counselors will obey the laws and statutes of the legal jurisdiction in which they practice.

2. Licensed rehabilitation counselors will be thoroughly familiar with and observe the legal limitations of the services they offer to clients. They will discuss these limitations as well as all benefits available to the clients they serve in order to facilitate open, honest communications and avoid unrealistic expectations.

3. Licensed rehabilitation counselors will be alert to the legal parameters relevant to their practices as well as to any disparities that may exist between legally mandated ethical and professional standards and the Code. Where disparities exist, licensed rehabilitation counselors will follow the legal mandates and formally communicate such disparities to the Ethics Committee. In the absence of legal guidelines, the Code is binding.

4. Licensed rehabilitation counselors will not engage in any act or omission of a dishonest, deceitful, or fraudulent nature in the conduct of their professional activities. They will not allow the pursuit of financial gain or other personal benefits to interfere with the exercise of sound professional judgment and skills, nor will they abuse the relationship with a client to promote their personal or financial gain or the financial gain of an employer.

5. Licensed rehabilitation counselors will understand and abide by the Canons and Rules of Professional Conduct prescribed in the Code.

6. Licensed rehabilitation counselors will not advocate, sanction, participate in, cause to be accomplished, carry out through another or condone any act which they themselves are prohibited from performing by the Code.

7. Moral and ethical standards of behavior are a personal matter for licensed rehabilitation counselors to the same degree as they are for any other citizen, except as such standards may compromise the fulfillment of the individuals' professional responsibilities or reduce public trust in licensed rehabilitation counselors.

8. Licensed rehabilitation counselors will respect the rights and reputation of any institution, organization or firm with which they are associated when making oral or written statements. In those instances where they are critical of policies, they will attempt to effect change through constructive action within the organization.

9. Licensed rehabilitation counselors will refuse to participate in employment practices that are inconsistent with the moral or legal standards regarding the treatment of employees or the public. Licensed rehabilitation counselors will not condone practices that result in illegal or otherwise unjustifiable discrimination on any basis in hiring, promotion or training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1602. Canon 2: Client-Counselor Relationship

A. Licensed rehabilitation counselors shall respect the integrity and protect the welfare of the people and groups with whom they work. The primary obligation of licensed rehabilitation counselors is to their clients (defined as individuals with disabilities who are receiving services from licensed rehabilitation counselors). At all times, licensed rehabilitation counselors shall endeavor to place their clients' interests above their own. The Rules of Professional

Conduct governing compliance with this Canon are as follows:

1. Licensed rehabilitation counselors will clearly communicate to clients the purposes and goals of rehabilitation counseling, and any limitation that may affect the counseling relationship.

2. Licensed rehabilitation counselors will not misrepresent their role or competence to clients. If requested, they will provide information about their credentials, and will refer clients to other specialists as the needs of the clients dictate.

3. Licensed rehabilitation counselors will be continually cognizant of their own needs and values as well as of their potential influence over clients, students, and subordinates. They will avoid exploiting the trust or dependency of such persons. Licensed rehabilitation counselors will make every effort to avoid dual relationships that could impair their professional judgment or increase the risk of exploitation. Examples of dual relationships include, but are not limited to research with and treatment of employees, students, supervisors, close friends, or relatives. Sexual intimacy with clients is unethical.

4. Licensed rehabilitation counselors will not knowingly engage in behavior that is harassing or demeaning to persons with whom they interact in their work based on factors such as those persons' age, gender, race, ethnicity, national origin, religion, sexual orientation, disability, language, or socioeconomic status.

5. Licensed rehabilitation counselors who provide services at the request of a third party will clarify the nature of their relationships to all rightful, legal parties and to all members of the treatment team. Licensed rehabilitation counselors will inform all parties of their ethical responsibilities and take needed actions to assure that all parties understand their ethical responsibilities. Licensed rehabilitation counselors who are employed by third parties as case consultants or expert witnesses, where there is not intent to provide rehabilitation counseling services directly to clients (beyond file review, initial interview, and/or assessment) will clearly define, through written or oral means, the limits of their relationship (particularly in the areas of informed consent and confidentiality) to all rightful, legal parties and to all members of the treatment team. When serving as case consultants or expert witnesses, licensed rehabilitation counselors shall provide unbiased, objective opinions.

6. Licensed rehabilitation counselors will honor the rights of clients to consent to participate and the right to make decisions with regard to rehabilitation services. They will inform the clients or their legal representative, using language that is reasonably understandable to the client and/or legal representative, of factors that may affect the clients' decision to take part in rehabilitation services, and they will obtain written consents once the clients or their legal representatives are fully informed of these factors. Licensed rehabilitation counselors who work with minors or other persons who are unable to give informed, voluntary consent will take special care to protect the interests of their clients.

7. Licensed rehabilitation counselors will avoid initiating or continuing consulting or counseling relationships if it appears there can be no benefit to the

client; in these cases, the licensed rehabilitation counselor will suggest appropriate alternatives to the client.

8. Licensed rehabilitation counselors will recognize that families are usually an important factor in the clients' rehabilitation and will strive to enlist their understanding and involvement as a positive resource in achieving rehabilitation goals. The clients' permission will be secured prior to any family involvement.

9. Licensed rehabilitation counselors and their clients will work together to devise an integrated, individualized rehabilitation plan that promises reasonable success and is consistent with each client's circumstances and abilities. Licensed rehabilitation counselors will continually monitor such plans to ensure their ongoing viability and effectiveness, remembering that clients have the right to make their own choices.

10. Licensed rehabilitation counselors will work with their clients in evaluating potential employment opportunities, considering only those jobs and circumstances that are consistent with the client's overall abilities, vocational limitations, physical and mental restrictions, general temperament, interests and aptitude patterns, social skills, education, general qualifications, and other relevant characteristics and needs. Licensed rehabilitation counselors will neither place nor participate in the placing of clients in positions that could damage the interests and welfare of either the client or the employer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1603. Canon 3: Client Advocacy

A. Licensed rehabilitation counselors shall serve as advocates for individuals with disabilities. The Rules of Professional Conduct governing compliance with this Canon are as follows.

1. Licensed rehabilitation counselors will be obligated at all times to promote better access for individuals with disabilities for facilities, programs, transportation, and communication, so that clients will not be excluded from opportunities to participate fully in rehabilitation, education, and society.

2. Licensed rehabilitation counselors will ensure that programs, facilities, and employment settings are appropriately accessible before referring clients to them.

3. Licensed rehabilitation counselors will strive to understand the accessibility problems individuals with cognitive, hearing, mobility, visual and/or other disabilities face, and to demonstrate this understanding in the practice of their profession.

4. Licensed rehabilitation counselors will strive to eliminate attitudinal barriers, including stereotyping and discrimination, toward individuals with disabilities and to increase their own awareness and sensitivity to such individuals.

5. Licensed rehabilitation counselors will remain aware of the actions taken by cooperating agencies on behalf of their clients and will act as the advocates of such clients to ensure effective service delivery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Social Services. Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1604. Canon 4: Professional Relationships

A. Licensed rehabilitation counselors shall act with integrity in their relationships with colleagues, organizations, agencies, institutions, referral sources, and other professions in order to provide clients with optimum benefits. The Rules of Professional Conduct governing compliance with this Canon are as follows.

1. Licensed rehabilitation counselors will ensure that there is a mutual understanding of the rehabilitation plan by all involved in the rehabilitation of clients and that all rehabilitation plans are developed with such mutual understanding.

2. Licensed rehabilitation counselors will abide by and help to implement "team" decisions when formulating rehabilitation plans and procedures, even if not in personal agreement with such decisions, unless they constitute a breach of ethical conduct.

3. Licensed rehabilitation counselors will not commit receiving counselors to any prescribed course of action in relation to clients they may transfer to other colleagues or agencies. 4. Licensed rehabilitation counselors will promptly supply all information needed for a cooperating agency or counselor to begin serving a client.

5. Licensed rehabilitation counselors will not offer ongoing professional rehabilitation counseling or case management services to clients who are receiving such services from another rehabilitation counselor without first notifying that individual. File reviews and second-opinion services are not included in the concept of professional rehabilitation counseling and case management services and do not require prior notification.

6. Licensed rehabilitation counselors will secure appropriate reports and evaluations from other specialists when such reports may affect rehabilitation planning and/or service delivery.

7. Licensed rehabilitation counselors will not discuss the competency of other rehabilitation counselors or agencies (including the judgments made, methods used or quality of rehabilitation plans) in a disparaging way with their clients.

8. Licensed rehabilitation counselors will not use their professional relationships with supervisors, colleagues, students or employees to exploit them sexually or otherwise. Neither will they engage in or condone sexual harassment (defined as deliberate or repeated comments, gestures or physical contacts of a sexual nature that are unwanted by the recipients).

9. Licensed rehabilitation counselors who know of an ethics violation by another rehabilitation counselor will attempt to resolve the issue informally with that person provided the misconduct is minor in nature and/or appears to be due to a lack of sensitivity, knowledge, or experience. If the violation is more serious or not amenable to an informal resolution, the rehabilitation counselor will bring it to the attention of the appropriate committee on professional ethics

of any professional organization or credentialing body with which the rehabilitation counselor is affiliated.

10. Licensed rehabilitation counselors possessing information of an alleged violation of this Code will reveal such information to the Board or another authority empowered to investigate or act upon the alleged violation, if requested to do so, unless and only to the extent that the information is protected by law.

11. Licensed rehabilitation counselors who employ or supervise students or other professionals will provide appropriate working conditions, timely evaluations, constructive consultations, and suitable experience opportunities to facilitate the professional development of these individuals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1605. Canon 5: Public Statement/Fees

A. Licensed rehabilitation counselors shall adhere to professional standards in establishing fees and promoting their services. The Rules of Professional Conduct governing compliance with this Canon are as follows.

1. Licensed rehabilitation counselors will consider carefully the value of their services and the financial resources of their clients in order to establish reasonable fees for their professional services.

2. Licensed rehabilitation counselors will not accept a fee or any other form of remuneration for their work from clients who are entitled to their services through an institution, agency, or other benefit structure, unless rehabilitation counselors fully inform clients of the availability of services from such other services.

3. Licensed rehabilitation counselors will neither give nor receive commissions, rebates or any other form of remuneration when referring clients for professional services.

4. Licensed rehabilitation counselors who describe the rehabilitation counseling and other services offered to the public will present such information fairly and accurately, avoiding misrepresentation through sensationalism, exaggeration, or superficiality. Licensed rehabilitation counselors will be guided by their primary obligation to aid the public in forming valid opinions and making informed choices and judgments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1606. Canon 6: Confidentiality

A. Licensed rehabilitation counselors shall respect the confidentiality of information obtained from clients in the course of their work. The Rules of Professional Conduct governing compliance with this Canon are as follows.

1. Licensed rehabilitation counselors will inform clients of the limits of confidentiality at the onset of the rehabilitation counseling relationship.

2. Licensed rehabilitation counselors will take reasonable direct action, inform responsible authorities or warn those persons at risk if the condition or actions of a client indicate there is a clear and imminent danger to the

client or others; rehabilitation counselors will take such actions only after advising the client of what must be done. Consultations with other professionals should be used in order to clarify a reasonable course of action. If actions are taken that result in diminished autonomy for a client, they must be taken only after careful deliberation, and clients must be permitted to resume autonomous responsibility as quickly as possible.

3. Licensed rehabilitation counselors will not forward any confidential information to another person, agency, or potential employer without the written permission of the client or the client's legal representative.

4. Licensed rehabilitation counselors will ascertain that the agencies which cooperate in serving their clients have specific policies and practices in place to protect client confidentiality.

5. Licensed rehabilitation counselors will safeguard the maintenance, storage, and disposal of client records so unauthorized persons cannot gain access to them. Any non-professional who must be given access to a client's records will be thoroughly instructed by the licensed rehabilitation counselor about the confidentiality standards to be observed.

6. Licensed rehabilitation counselors will maintain and dispose of records in accordance with law and in a manner that permits compliance with the requirements of this Code.

7. Licensed rehabilitation counselors will present only germane data in preparing oral and written reports, and will make every effort to avoid undue invasions of privacy.

8. Licensed rehabilitation counselors will obtain written permission from clients or their legal representatives prior to taping or otherwise recording counseling sessions. Even if a legal representative's consent is obtained, rehabilitation counselors will not record sessions against the expressed wishes of their client.

9. Licensed rehabilitation counselors will provide only relevant information about clients seeking jobs to prospective employers. Before releasing any information that might be considered confidential, the rehabilitation counselor will secure the permission of the client or legal representative.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1607. Canon 7: Assessment

A. Licensed rehabilitation counselors shall promote the welfare of clients in the selection, use, and interpretation of assessment measures. The Rules of Professional Conduct governing compliance with this Canon are as follows.

1. Licensed rehabilitation counselors will recognize that different tests require different levels of competence to administer, score, and interpret; they will also recognize the limits of their professional competence and will perform only those functions for which they are trained.

2. Licensed rehabilitation counselors will carefully consider the specific validity, reliability, and appropriateness of tests when selecting them for use in a given situation or for particular clients. They will proceed with caution in attempting to evaluate and interpret the performance of individuals with disabilities, members of minority groups, or persons who are not represented in standardized norms.

Licensed rehabilitation counselors will take into consideration the effects of socioeconomic, ethnic, disability, and cultural factors on test scores.

3. Licensed rehabilitation counselors will administer tests under the conditions established when the tests were standardized. When non-standard conditions are required to accommodate clients with disabilities, or when unusual behaviors or irregularities occur during the testing session, those circumstances will be noted and taken into account when interpreting the test results.

4. Licensed rehabilitation counselors will ensure that instrument limitations are not exceeded, and that periodic assessments are made to prevent client stereotyping.

5. Licensed rehabilitation counselors will inform clients, using language that is reasonably understandable to the client, of the purpose of any testing and the explicit use of the results before administration.

6. Licensed rehabilitation counselors will ensure that an explanation of the test results is provided using language that is reasonably understandable to the person assessed or to another legally authorized person on behalf of the client, unless the nature of the relationship is clearly explained to the client in advance and precludes provision of an explanation of results (such as in some organizational consulting, pre-employment screenings, and forensic evaluations). Regardless of whether the scoring and interpretation are done by the rehabilitation counselor, by assistants, or by automated or other outside services, licensed rehabilitation counselors will take reasonable steps to ensure that appropriate explanations of results are given.

7. Licensed rehabilitation counselors will attempt to ensure that the interpretations produced by automated assessment programs or procedures have been validated through appropriate research. Public offerings of automated test interpretation services will be considered as professional-to-professional consultations. In these instances, the formal responsibility of the consultant is to the consultee, but the ultimate and overriding responsibility is to the client.

8. Licensed rehabilitation counselors will recognize that assessment results may become outdated and will make every effort to avoid the use of obsolete measures. They will not base their assessment decisions or recommendations on data or test results that are outdated for the current purpose.

9. Licensed rehabilitation counselors will refrain from misuse of assessment techniques, results, and interpretations and take reasonable steps to prevent others from misusing the information these techniques provide. This includes refraining from releasing raw test results or raw data to persons who are not qualified to use such information.

10. Licensed rehabilitation counselors will make reasonable efforts to maintain the integrity and security of tests and other assessment techniques consistent with law, contractual obligations, and in a manner that permits compliance with the requirements of this Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1608. Canon 8: Research Activities

A. Licensed rehabilitation counselors shall assist in efforts to expand the knowledge needed to serve individuals

with disabilities more effectively. The Rules of Professional Conduct governing compliance with this Canon are as follows.

1. Licensed rehabilitation counselors will ensure that research data meet rigid standards of validity, accuracy, and protection of confidentiality.

2. Licensed rehabilitation counselors will be aware of and responsive to all pertinent ethical, legal, and scientific guidelines on research with human subjects. When planning such research, rehabilitation counselors will ensure that the project, design, execution, and reporting are in full compliance with such guidelines.

3. Licensed rehabilitation counselors who present case studies in classes, professional meetings, or publications will confine the content to information that can be sufficiently disguised to ensure full protection of client identity.

4. Licensed rehabilitation counselors will credit those who contribute to publications in proportion to the size of their contribution.

5. Licensed rehabilitation counselors recognize that openness and honesty are essential to relationships between rehabilitation counselors and research participants. When a study's methodology requires concealment or deception, the rehabilitation counselor will ensure that participants understand the reasons for such actions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1609. Canon 9: Forensic Activities

A. Licensed rehabilitation counselors who perform forensic functions, such as assessments, interviews, consultations, reports, or expert testimony, must comply with all other provisions of this Code to the extent that they apply to such activities. Licensed rehabilitation counselors base their forensic work on appropriate knowledge of and competence in the areas underlying such work, including specialized knowledge concerning special populations. The Rules of Professional Conduct governing compliance with this Canon are as follows.

1. Licensed rehabilitation counselors' forensic assessments, recommendations, and reports will be based on information and techniques (including personal interviews of the individual, when appropriate) sufficient to provide appropriate substantiation for their findings.

2. Licensed rehabilitation counselors will provide written or oral forensic reports or testimony of the vocational rehabilitation characteristics of an individual only after they have conducted an assessment of the individual adequate to support their statements or conclusions, except as noted in R9.3.

3. Licensed rehabilitation counselors will clarify the impact of their limited information on the reliability and validity of their reports and testimony, and they will appropriately limit the nature and extent of their conclusions or recommendations, when, despite reasonable efforts, an individual assessment is not feasible.

4. Licensed rehabilitation counselors in most circumstances will avoid performing multiple and potentially conflicting roles in forensic matters. When rehabilitation counselors may be called on to serve in more than one role in a legal proceeding—for example, as a case

consultant or expert witness for one party or for the court and as a fact witness they will clarify role expectations and the extent of confidentiality in advance to the extent feasible, and thereafter as changes occur, in order to avoid compromising their professional judgment and objectivity and in order to avoid misleading others regarding their role.

5. Licensed rehabilitation counselors will testify truthfully, honestly, candidly, and consistent with applicable legal procedures, describe fairly the bases for their testimony and conclusions in forensic testimony and reports. Licensed rehabilitation counselors will acknowledge the limits of their data or conclusions whenever necessary to avoid misleading.

6. Licensed rehabilitation counselors will not be precluded by a prior professional relationship with a party from testifying as a fact witness or from testifying to their services to the extent permitted by applicable law. Licensed rehabilitation counselors will take into account ways in which the prior relationship might affect their professional objectivity or opinions and disclose the potential conflict to the relevant parties.

7. Licensed rehabilitation counselors will be reasonably familiar with the Rules governing their roles in performing forensic activities. Licensed rehabilitation counselors will be aware of the occasionally competing demands placed upon them by these Rules and the requirements of the court system, and will attempt to resolve these conflicts by making known their commitment to this Code and taking steps to resolve the conflict in a responsible manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1610. Canon 10: Competence

A. Licensed rehabilitation counselors shall establish and maintain their professional competence at a level which ensures their clients will receive the benefit of the highest quality of service the profession is capable of offering. The Rules of Professional Conduct governing compliance with this Canon are as follows.

1. Licensed professional counselors will function within the limits of their defined role, training, and technical competency, accepting only those positions for which they are professionally qualified. They will provide services, teach, or conduct research in new areas or involving new techniques only after first undertaking appropriate study, training, supervision, and/or consultation from persons who are competent in those areas or techniques.

2. Licensed rehabilitation counselors will continuously strive, through reading, attending professional meetings, and taking courses of instruction, to remain aware of developments, concepts, and practices that are essential in providing the highest quality of services to their clients.

3. Licensed rehabilitation counselors, recognizing that personal problems may interfere with their professional effectiveness, will refrain from undertaking any activity in which such problems could lead to inadequate performance. If they are already engaged in such a situation when they become aware of a problem, they will seek competent professional assistance to determine if they should limit, suspend, or terminate their professional activities.

4. Licensed rehabilitation counselors who are educators will perform their duties based on careful preparation so that their instruction is accurate, up-to-date, and scholarly.

5. Licensed rehabilitation counselors who are educators will ensure that statements made in catalogs and course outlines are accurate, particularly in terms of subject matter, basis for grading, and teaching methods.

6. Licensed rehabilitation counselors who are educators will maintain high standards of knowledge and skill by presenting information in their field fully and accurately, and by giving appropriate recognition to alternative viewpoints.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1611. Canon 11: LRC Credential

A. Rehabilitation counselors holding the designation of Licensed Rehabilitation Counselor (LRC) shall honor its integrity and respect the limitations placed on its use. The Rules of Professional Conduct governing compliance with this Canon are as follows:

1. Licensed rehabilitation counselors will use the LRC designation only in accordance with state statutory regulation as promulgated by the Louisiana Licensed Professional Vocational Rehabilitation Counselors Board of Examiners (LLPVRC).

2. Licensed rehabilitation counselors will not claim a depth or scope of knowledge, skills, or professional capabilities that are greater than warranted simply because they achieved the LRC designation.

3. Licensed rehabilitation counselors will not write, speak, or act in a way as to lead another to reasonably believe the rehabilitation counselor is an official Board representative unless authorized to do so in writing by the Board.

4. Licensed rehabilitation counselors will not claim possession of unique skills or devices not available to others in the profession unless the existence and efficacy of such skills or devices has been scientifically demonstrated.

5. Licensed rehabilitation counselors will not initiate or support the candidacy of an individual for licensure if that individual is known to engage in professional practices that violate the Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

Chapter 17. Procedures for Processing Ethical Complaints

§1701. General

A. The Louisiana Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, hereafter referred to as the "Board" or "LLPVRC," is dedicated to the promotion of professional rehabilitation counselor practice in Louisiana through licensure to advance the quality of service provided to persons with disabilities.

B. The Board, in furthering its objectives, administers the Code of Professional Ethics for Licensed Rehabilitation

Counselors that has been developed and approved by the Board.

C. The purpose of the LLPVRC Guidelines and Procedures for Processing Ethical Complaints is to facilitate the work of the LLPVRC Ethics Committee ("Committee") by specifying the procedures for a) processing cases of alleged violation of the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors, b) sanctioning licensed rehabilitation counselors (LRC), and c) appeals. The intent of the Board is to monitor the professional conduct of its licensees to promote sound ethical practices. LLPVRC does not, however, warrant the performance of any individual.

D. In the event that the Board receives a complaint concerning an individual who does not possess an LRC designation, a representative of the Board will inform the complainant and may refer the complainant to an appropriate authority.

E. Any failure to disclose pertinent information of which an LRC has direct personal knowledge or any misleading disclosure by an LRC with respect to an ethics charge, criminal case, disciplinary proceeding, or similar matter, concerning him/her, may constitute a violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1702. Ethics Committee Members

A. The Ethics Committee is a standing Committee of the Board. The Committee consists of at least three but no more than five Board members, including Committee Chair, who are appointed by the Chair of the Board. Any vacancy occurring on the Committee will be filled by the Chair of the Board.

B. A quorum of three members of the Committee is necessary to conduct a hearing or any other business to come before the Committee.

C. In the event any member of the Committee has a personal interest in the case or has any knowledge of the case other than what has been provided to all Committee members, he/she shall withdraw from hearing the case. In the event that the Chair shall withdraw, the Board Chair shall appoint another Committee member to act a Chair of the Committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1703 Role and Function

A. The Ethics Committee is responsible for:

1. Educating the licensees and the general public as to the Board's Code of Professional Ethics for Licensed Rehabilitation Counselors;

2. Periodically reviewing and recommending changes in the Code of Professional Ethics for Licensed Rehabilitation Counselors as well as the Guidelines and Procedures for Processing Ethical Complaints;

3. Receiving and processing complaints of alleged violations of the Code of Professional Ethics for Licensed Rehabilitation Counselors; and

4. Receiving and processing questions.

B. The Committee shall meet in person or by telephone conference a minimum of four times per year for processing complaints.

C. In processing complaints of alleged violations, the Committee will compile an objective, factual account of the dispute in question and make the best possible recommendation for the resolution of the case. The Committee, in taking any action, shall do so only for cause, shall only take the degree of disciplinary action that is reasonable, shall utilize these procedures with objectivity and fairness, and, in general, shall act only to further the interests and objectives of the Board and its licensees.

D. If a Committee member excuses himself/herself from a complaint and insufficient members are available to conduct business, the Chair of the Board shall appoint a former LLPVRC Board Member, who is an LRC, to act as a member of the Committee. In the event that no former LLPVRC Board Member is available to act as a member of the Committee, the Chair of the Board shall appoint a member who is a licensee until a sufficient number of members is obtained that constitutes a quorum.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1704. Responsibilities of the Committee Members

A. The Committee members have an obligation to act in an unbiased manner, to work expeditiously, to safeguard the confidentiality of the Committee's activities, and to follow procedures established to protect the rights of all individuals involved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1705. Responsibilities of the Committee Administering the Complaint

A. The responsibilities of the Committee will include, but not be limited to, the following:

1. Review complaints that have been received;

2. Determine whether the alleged behavior, if true, would violate LLPVRC's Code of Professional Ethics for Licensed Rehabilitation Counselors, and whether the Committee should accept the complaint under these rules;

3. Notify the complainant and licensee that the Committee has determined that no action will be taken; or, if action is to be taken, notify the complainant and the LRC of acceptance of the complaint via certified mail and marked "Personal and Confidential";

4. Request additional information from the complainant, licensee, or others;

5. Arrange for legal advice with the assistance of the LLPVRC Chair; and

6. Prepare and send, via certified mail, and marked "Personal and Confidential," communications to the complainant and LRC on the decisions of the Committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1706. Jurisdiction

A. The Committee has jurisdiction to consider whether an individual has violated the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors if the individual is a current licensee of the LLPVRC.

B. Should a respondent attempt to relinquish LLPVRC licensure during the course of any case, the Board reserves the right to continue the matter for a final and binding resolution according to these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1707. Eligibility to File Complaints

A. The Committee will accept complaints that an LRC has violated one or more sections of the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors from the following:

1. Members of the general public who have reason to believe that an LRC has violated the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors.

2. LRCs or members of other helping professions who have reason to believe that a licensee has violated the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors.

3. The Committee Chair when the Committee has reason to believe through information received through materials in the public domain that an LRC has violated the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1708. Time Lines

A. The time lines set forth in these standards are guidelines only and have been established to provide a reasonable framework for processing complaints.

B. The Committee will grant an extension of a deadline requested by a licensee or complainant only when justified by unusual circumstances.

C. LRCs are pledged, in accordance with the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors, to cooperate with proceedings of the Board for any alleged violation of the Code of Professional Ethics for Licensed Rehabilitation Counselors. If the LRC voluntarily relinquishes licensure or if the licensee or complainant fails to cooperate with an ethical inquiry in any way, the Board shall, at its discretion, continue its investigation, noting in its final report the circumstances of the LRC's failure to cooperate. The Committee, in its sole discretion, may terminate the complaint of an uncooperative complainant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1709. Nature of Communication

A. Only signed, written communications regarding ethical complaints against LRCs will be accepted. If telephone inquiries from individuals are received regarding

the filing of complaints, responding to complaints, or providing information regarding complaints, the individuals calling will be informed of the signed, written communication requirement and asked to comply.

B. All correspondence related to a complaint must be addressed to the Ethics Committee, LLPVRC Board of Examiners, P.O. Box 41594, Baton Rouge, LA 70835-1594, and must be marked "Confidential." This process is necessary to protect the confidentiality of the complainant and the LRC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1710. Management of Filed Complaints

A. Upon receipt of complaints, the Committee will communicate to the complainant and LRC in writing, via certified mail marked "Personal and Confidential," noting its receipt of the complaint and its confirmation of the licensed status of the accused LRC.

B. The Committee will determine whether the complaint, if true, would violate one of more sections of the Code of Professional Ethics for Licensed Rehabilitation Counselors. If not, the complaint will not be accepted and the complainant and licensee so informed in writing via certified mail.

C. If the Committee determines that the complaint contains insufficient information to make a fair determination of whether the behavior alleged in the complaint would be cause for action by the Committee, the Committee may request further written information for the complainant or others.

D. When complaints are accepted, the complainant and LRC will be so informed in writing via certified mail.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1711. Notification of LRC

A. Once the complaint has been received, the LRC will be sent a copy of the complaint via certified mail, and marked "Personal and Confidential."

B. If the complaint is accepted, the LRC will be asked to respond in writing to the complaint against him/her, addressing each of the following areas:

1. Acknowledge the section of the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors which he/she has been accused of having violated; and

2. Submit any fact affidavits, documents, or written arguments which he/she wishes to be considered by the Committee in reviewing the complaint.

C. The LRC will be informed that if he/she wants to respond, he/she must do so in writing within thirty (30) days from the date of notification. If the licensee fails to respond in writing to a request from the Committee, the Committee may impose sanctions on the basis of the complaint alone.

D. Should the Committee request further information from the LRC, the licensee shall be given thirty (30) days from the date of request to respond.

E. The Committee may, in its discretion, delay or postpone its review of the case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1712. Disposition of Complaints

A. After receiving the response of the LRC, Committee members will be provided copies of the response and supporting fact affidavits, documents, or written arguments provided by the LRC and others.

B. At the next meeting or teleconference of the Committee, the Committee will discuss the complaint, response, and any supporting documentation.

C. On the basis of the complaint and the LRC's response, the Committee must act as follows.

1. If no violation is found, the case will be closed and all parties will be notified of case closure in writing via certified mail; or

2. If reasonable basis is found to exist for any violation alleged in the complaint, all parties will be notified in writing via certified mail. Upon a finding of reasonable basis, the LRC may make a written request for a hearing before the Committee or the Committee, in its discretion, may initiate a hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1713. Withdrawal of Complaints

A. If the complainant and LRC agree to discontinue the complaint process, the Committee may, at its discretion, complete the adjudication process if available evidence indicates that this is warranted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1714. Ethics Committee Actions

A. Letter of Instruction. In the event it is determined that the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors has been violated, the Committee will consider the degree of harm and significant mitigating circumstances and may issue a letter of instruction, which is not a sanction.

B. Sanctions. In the event it is determined that the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors has been violated, and a letter of instruction is not appropriate, the Committee shall impose one or a combination of the possible sanctions which follow:

1. Reprimand. Remedial requirements may be stipulated by the Committee.

2. Probation for a specified period of time subject to Committee review of compliance. Remedial requirements may be imposed to be completed within a specified period of time.

3. Suspension of LRC license for a specified period of time subject to Committee review of compliance. Remedial requirements may be imposed to be completed within a specified period of time.

4. Revocation of LRC license.

C. The penalty for failing to fulfill, in a satisfactory manner, a remedial requirement imposed by the Committee

as a result of a sanction will be automatic revocation unless the Committee determines that the remedial requirement should be modified based on good cause.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1715. Notification of Results

A. The LRC shall be given a written notice via certified mail of Committee decisions regarding complaints against him/her.

B. If a violation has been found and the LRC's license has been suspended or revoked, other licensure or certification boards, voluntary national certification boards, and appropriate professional associations will also be notified of the results.

C. If a violation has been found and the LRC's license has been suspended or revoked, a notice of the Committee action that includes the section(s) of the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors that were found to have been violated and the sanctions imposed will be published on the LLPVRC website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1716. Hearings

A. A hearing shall be initiated:

1. if the LRC requests a hearing; or
2. at any time at the request of the Committee.

B. If a hearing has been requested or initiated by the Committee, and provided all necessary and requested information is received, the Committee Chair shall schedule a hearing on the case at the next scheduled Committee meeting and notify the complainant and the licensee of their right to attend the hearing.

C. The hearing will be held before the Committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1717. Hearing Procedures

A. Purpose

1. A hearing will be conducted to determine whether a violation of the Code of Professional Ethics for Licensed Rehabilitation Counselors has occurred and, if so, to determine appropriate disciplinary action.

2. The Committee shall be guided in its deliberations by principles of basic fairness and professionalism, and will keep its deliberations as confidential as possible, except as provided herein.

B. Notice

1. The LRC shall be advised in writing via certified mail by the Chair administering the complaint of the time and place of the hearing.

2. If the LRC fails to appear at the hearing, the Committee shall decide the complaint and determine what testimony it will hear on record. Failure of the LRC to appear at the hearing shall not be viewed by the Committee as sufficient grounds alone for taking disciplinary action.

C. Conduct of the Hearing

1. The location of the hearing shall be determined at the discretion of the Committee. The Committee shall provide a private room to conduct the hearing and no observers or recording devices other than a recording device used by the Committee shall be permitted.

2. The Chair administering the complaint shall preside over the hearing and deliberations of the Committee. At the conclusion of the hearing and deliberations of the Committee, the Chair shall promptly issue written notice to the LRC via certified mail of the Committee's decision. The Chair shall also notify the complainant in writing via certified mail of the disposition of the complaint. However, the Chair shall not disclose the disciplinary action, if any, imposed on the licensee.

3. A record of the hearing shall be made and preserved, together with any documents presented in evidence, at the Board's administrative office. The record shall consist of a summary of testimony received or a verbatim transcript, at the discretion of the Committee.

4. The LRC and the complainant shall be entitled to have legal counsel or a representative present to advise and represent them throughout the hearing. Legal counsel for the Board may also be present at the hearing to advise the Committee and shall have the privilege of the floor.

5. Either party shall have the right to call witnesses to substantiate his/her version of the case.

6. The Committee shall have the right to call witnesses it believes may provide further insight into the matter.

7. Witnesses shall not be present during the hearing except when they are called upon to testify and shall be excused upon completion of their testimony and any cross-examination.

8. The Chair administering the complaint shall allow questions to be asked of any witness by the opposition or members of the Committee if such questions and testimony are relevant to the issues in the case.

9. The Chair administering the complaint will determine what questions and testimony are relevant to the case. Should the hearing be subject to irrelevant testimony, the Chair may call a brief recess until order can be restored.

10. Both the complainant and the LRC, and any witnesses and legal counsel that they may have must pay their own expenses. Parties initiating telephone contact will assume the expenses related to the calls.

D. Presentation of Evidence

1. The Chair administering the complaint shall be called upon first to present the charge(s) made against the LRC and to briefly describe the evidence supporting the charge. The Chair shall also be responsible for examining and cross-examining witnesses on behalf of the complainant and for otherwise presenting the matter during the hearing.

2. The complainant or a member of the Committee shall then be called upon to present the case against the LRC. Witnesses who can substantiate the case may be called upon to testify and answer questions of the LRC and the Committee.

3. If the LRC has exercised the right to be present at the hearing, he/she may be called upon to present any evidence which refutes the charges against him/her. This includes witnesses as in Subsection 3 above.

4. The LRC will not be found guilty simply for refusing to testify. Once the LRC chooses to testify, however, he/she may be cross-examined by the complainant and members of the Committee, subject to the constitutional rights of the licensee.

5. Testimony that is merely cumulative or repetitious may, at the discretion of the Chair administering the complaint, be excluded.

6. All parties providing testimony will be required to attest to the veracity of their statements.

E. Relevancy of Evidence:

1. The Committee hearing is not a court of law and is not required to observe formal rules of evidence. Evidence that would be inadmissible in a court of law may be admissible in the hearing before the Committee, if it is relevant to the case. Therefore, if the evidence offered tends to explain, clarify, or refute any of the important facts of the case, it should be considered.

2. The Committee will not consider evidence or testimony for the purpose of supporting any charge that was not set forth in the notice of the hearing or that is not relevant to the issues of the case.

F. Burden of Proof

1. The burden of proving a violation of the Code of Professional Ethics for Licensed Rehabilitation Counselors is on the complainant and/or the Committee.

2. Although the charge(s) need not be proved beyond a reasonable doubt, a Committee finding that an LRC has violated the Code of Professional Ethics for Licensed Rehabilitation Counselors must be supported by substantial, objective, and believable evidence.

G. Deliberation of the Committee:

1. After the hearing is completed, the Committee shall meet in a closed session to review the evidence presented and reach a conclusion. The Board's legal counsel may attend the closed session to advise the Committee if the Committee so desires.

2. The Committee shall be the sole judge of the facts and shall weigh the evidence presented and assess the credibility of the witnesses. The decision of a majority of the members of the Committee present shall be the decision of the Committee and the Board. The Chair shall vote only to break a tie or when the Committee consists of three members.

3. Only members of the Committee who were present throughout the entire hearing shall be eligible to vote.

H. Decision of the Committee:

1. The Committee will first resolve the issue of the guilt or innocence of the LRC on each charge. Applying the burden of proof in Subsection 5 above, the Committee will vote by secret ballot, unless all of the members of the Committee entitled to vote consent to an oral vote.

2. In the event the Committee does not find the licensee guilty, the charges will be dismissed. If the Committee finds the LRC has violated the Code of Professional Ethics for Licensed Rehabilitation Counselors, it must then determine what sanctions shall be imposed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1718. Appeals

A. Decisions of the LLPVCR Ethics Committee that a licensee has violated the Code of Professional Ethics for Licensed Rehabilitation Counselors may be appealed by the LRC found to have been in violation based on one or more of the following grounds.

1. The Committee violated its policies and procedures for processing complaints of ethical violations; and/or

2. The decision of the Committee was arbitrary and capricious and was not supported by the materials provided by the complainant and the licensee.

B. After the LRC has received notification that he/she has been found in violation of one or more sections of the LLPVRC Code of Professional Ethics for Licensed Rehabilitation Counselors, he/she will be given thirty (30) days from the date written notification is sent to notify the Committee in writing via certified mail that he/she is appealing the decision.

C. An appeal must be in writing stating one or more grounds of appeal listed in Section R.1, Subsections a or b above, and the reasons for the appeal.

D. The Board Chair will appoint a three person appeals panel consisting of at least one former Board member, who is currently an LRC, with the balance of the licensees, none of whom served on the Committee at the time the original decision was rendered. The Board's attorney shall serve as legal advisor and have the privilege of the floor.

E. The three member appeals panel will be given copies of the materials available to the Committee when it made its decision, a copy of the hearing transcript if a hearing was held, and a copy of the letter filed by the appealing licensee.

F. The decision of a majority of the members of the appeals panel shall be the final decision. The decision shall be rendered within a reasonable period of time.

G. The decision of the appeals panel may include one of the following.

1. The decision of the Committee is upheld.

2. The decision of the Committee is reversed and/or remanded with guidance to the Committee for a new hearing. The reason for this action will be given in detail to the Committee in writing.

H. When a Committee decision is reversed and/or remanded, the complainant and the LRC will be informed in writing via certified mail and additional information may be requested. The Committee will then render another decision after further hearing.

I. A decision of the appeals panel to uphold the Committee decision is final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1719. Substantial New Evidence

A. In the event substantial new evidence, which was not available to the LRC at the time of the hearing, is presented in a case in which an appeal was not filed, or in a case where a final decision has been rendered, the case may be reopened by the Committee.

B. The Committee will consider substantial new evidence that was unavailable at the time of the hearing and, if it is found to be substantiated and capable of exonerating an LRC whose license was revoked, the Committee will

reopen the case and proceed with the entire complaint process again.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1720. Records

A. The records of the Committee regarding complaints are confidential except as provided herein.

1. All information concerning complaints against LRCs shall be confidential except that the Committee may disclose such information when compelled by a validly issued subpoena or when otherwise required by law or valid court order. In addition, the Committee may disclose to any appropriate organizations or individuals that an individual is under ethical investigation in cases deemed to be threats to the public welfare and only when to do so before final adjudication appears necessary to protect the public.

2. Nothing in this Section shall be construed to prevent the Committee from communicating with the complainant, witnesses, potential members of fact-finding committees, or other sources of information necessary to enable the Committee to carry out its investigative function.

B. Original copies of complaint records will be maintained in locked files at the Board's administrative office or at an off-site location chosen by the Board for a specified period of time listed below:

1. Confidential Permanent Files. Permanent files of the Committee shall be confidential and shall be available only to those specifically authorized by the Committee and by the Chair of the Board.

2. Files for Revocation. Files concerning an LRC whose license has been revoked shall be maintained indefinitely.

3. Files for Non-Violations. Except for those cases for insufficient evidence, personally identifiable information concerning an LRC who has been found not to have violated the Code of Professional Ethics for Licensed Rehabilitation Counselors shall be destroyed one year after the Committee has closed the case.

4. Files for Insufficient Information. In cases where the Committee has closed a case due to evidence insufficient to sustain a complaint of ethical violation, records containing personally identifiable information shall be maintained for five years after the Committee has closed the case.

5. Files of Lesser Sanctions. In cases where the Committee has found an ethical violation but where the sanction is less than revocation, records containing personally identifiable information shall be maintained for five years after the Committee has closed the case.

6. Files After Death. All records containing personally identifiable information shall be destroyed one year after the Commission is notified of the death of the LRC.

7. Records for Educational Purposes. Nothing in this Section shall preclude the Committee from maintaining records in a form which prevents identification of the LRC so that it may be used for archival, educational, or other legitimate purposes.

C. Members of the Committee will keep copies of complaint records confidential and will destroy copies of records on the sooner of the date of case closure under

Section 1, the date the time for appeal has expired, or the date the member is no longer a member of the Committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

§1721. Legal Actions Related to Complaints

A. LRCs are required to notify the Committee if they learn of any type of legal action (civil or criminal) being filed in relation to the complaint.

B. In the event any type of legal action is filed regarding an accepted complaint, all actions related to the complaint may, at the discretion of the Committee, be stayed until the legal action has been concluded.

C. If actions on a complaint are stayed, the complainant and the LRC will be notified in writing via certified mail.

D. When actions on a complaint are continued after a legal action is concluded, the complainant and the LRC will be notified in writing via certified mail.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3441-3452 and 36:478.I.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners LR 28:

Family Impact Statement

The Licensed Professional Vocational Rehabilitation Counselors Board of Examiners hereby issues this Family Impact Statement: The proposed rule related to the Board's licensing authority will have no known impact on family formation, stability, and autonomy, as set forth in R.S.49:972.

The proposed action of the Licensed Professional Vocational Rehabilitation Counselors Board of Examiners complies with the statutory law administered by the board, R.S. 37:3441-3452. No preamble has been prepared concerning the amendments except for the addition of Chapters 16 and 17 as the proposed amendments simply reflect changes in the statutory law administered by the board. A preamble has been prepared with respect to the adoption of Chapters 16 and 17 related to the adoption of the code of ethics and processing of ethical complaints. The preamble is published herein or a copy may be obtained from the office of the Licensed Professional Vocational Rehabilitation Counselors Board of Examiners at the address set forth hereafter and interested persons may submit written comments on the proposed rules to Robert Gisclair at P.O. Box 41594 or 2156 Wooddale Blvd. Baton Rouge, LA 70835 or by FAX at 924-5073 who will be responsible for responding to inquiries concerning this proposed action. The deadline for receipt of all written comments is 4:30 p.m. on November 20, 2001.

Robert Gisclair
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Vocational Rehabilitation Counselors C Professional Ethics

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

The only implementation cost is the estimated \$1,600 cost of publishing the rules in the *Louisiana Register*.

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

There will be no decrease in revenues. There may be a minimal increase in revenues if additional license applications are made in accordance with the rules, but such additional applications are expected to be negligible.

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

Individuals engaged in activities which require a license pursuant to these rules who are not currently licensed may experience some increased expenditures as required by the licensing procedure and fees. (Most are already licensed). Similarly, since license renewal required continuing education, those not already attaining continuing education, may experience some increased cost to do so. (Most already obtain continuing education.)

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition and employment in the public and private sectors.

Robert Gisclair
Chairman
0111#035

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of Public Health

Reportable Disease

Under the authority of R.S. 40:5 and in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health proposes to amend Chapter II of the Louisiana Sanitary Code.

The threat of new or re-emerging infectious diseases/conditions, as well as, the potential for bioterrorist events, necessitates the addition of several diseases/conditions to the list of reportable diseases/conditions and changes in the time periods for reporting specific diseases/conditions (Section 2:003). The revised list of reportable diseases provides for the addition of the following diseases/conditions: Anthrax, Aseptic meningitis, Brucellosis, Cryptococcosis, Cyclosporiasis, Dengue, EHEC serogroup non 0157, EHEC + shiga toxin not serogrouped, Giardia, Hantavirus Pulmonary Syndrome, Hansen Disease (leprosy), Listeria, Plague, Psittacosis,

Streptococcal pneumoniae (invasive in children <5 years of age), Tularemia, Smallpox and Viral Hemorrhagic fever. This action has become necessary as a result of the recognition of new and re-emerging diseases of public health importance and/or those that may be associated with bioterrorist events. In addition, three diseases were removed from the reportable list for which reports have been rare or sporadic: Amebiasis, Meningitis, other bacterial, fungal and Mycobacteriosis, atypical. The need to categorize the reportable disease/condition list according to time periods for reporting will allow for more timely and efficient public health responses for which active intervention and prevention can be instituted.

Employee Health requirements for tuberculosis control would no longer apply to day care center employees (Section 2:022, 2:023 and 2:024), as no cases of tuberculosis have occurred among them since the requirement was implemented in 1994.

**Sanitary Code
State of Louisiana**

Chapter II. The Control of Disease

2:003 The following diseases or conditions are hereby declared reportable with reporting requirements by Class:

A. Class A Diseases or Conditions Which Shall Require Reporting Within 24 Hours

This class includes diseases of major public health concern because of the severity of disease and potential for epidemic spread. Class A diseases or conditions shall be reported to the Office of Public Health by telephone immediately upon recognition that a case, a suspected case, or a positive laboratory result is known. In addition, all cases of rare or exotic communicable diseases, unexplained death, unusual cluster of disease and all outbreaks shall also be reported.

The following diseases or conditions shall be classified as Class A for reporting requirements:

- Anthrax
- Botulism
- Brucellosis
- Cholera
- Diphtheria
- Haemophilus influenzae (invasive infection)
- Measles (rubeola)
- Neisseria meningitidis (invasive infection)
- Plague
- Rabies (animal and man)
- Rubella (congenital syndrome)
- Rubella (German measles)
- Smallpox
- Tularemia
- Viral Hemorrhagic Fever

B. Class B Diseases or Conditions Which Shall Require Reporting Within 1 Business Day

This class includes diseases of public health concern needing timely response because of potential for epidemic spread. The following Class B diseases shall be reported to

the Office of Public Health by the end of the next business day after the existence of a case, a suspected case, or a positive laboratory result is known
Arthropod-borne encephalitis

- Aseptic meningitis
- Chancroid¹
- E. Coli 0157:H7
- Hantavirus Pulmonary Syndrome
- Hemolytic-Uremic Syndrome
- Hepatitis A (acute illness)
- Hepatitis B (carriage in pregnancy)
- Herpes (neonatal)
- Legionellosis
- Malaria
- Mumps
- Pertussis
- Salmonellosis
- Shigellosis
- Syphilis¹
- Tetanus
- Tuberculosis²
- Typhoid Fever

C. Class C Diseases or Conditions Which Shall Require Reporting Within 5 Business Days

This class shall include the diseases of significant public health concern. The following diseases shall be reported to the Office of Public Health by the end of the workweek after the existence of a case, suspected case, or a positive laboratory result is known

- Acquired Immune Deficiency Syndrome (AIDS)
- Blastomycosis
- Campylobacteriosis
- Chlamydial infection⁰
- Cryptococcosis
- Cryptosporidiosis
- Cyclosporiasis
- Dengue
- EHEC serogroup non 0157
- EHEC + shiga toxin not serogrouped
- Enterococcus -Vancomycin Resistant; (VRE)
- Giardia
- Gonorrhea⁰
- Hansen Disease (leprosy)
- Hepatitis B (acute)
- Hepatitis C (acute)
- Human Immunodeficiency Virus (HIV)
- Listeria
- Lyme Disease
- Lymphogranuloma venereum⁰
- Psittacosis
- Rocky Mountain Spotted Fever (RMSF)
- Staphylococcus aureus, Methicillin/Oxacillin or vancomycin resistant (MRSA)
- Streptococcus pneumoniae [invasive infection; penicillin, resistant (DRSP)]
- Streptococcus pneumoniae (invasive infection in children <5 years of age)
- Varicella (chickenpox)
- Vibrio infections (other than cholera)

D. Other Reportable Conditions

Cancer
Complications of abortion
Congenital hypothyroidism*
Galactosemia*
Hemophilia*
Lead Poisoning
Phenylketonuria*
Reye's Syndrome
Severe traumatic head injury**
Severe undernutrition
(severe anemia, failure to thrive)
Sickle cell disease (newborns)*
Spinal cord injury**
Sudden infant death syndrome (SIDS)

Case reports not requiring special reporting instructions (see below) can be reported by Confidential Disease Case Report forms (2430), facsimile, phone reports, or electronic transmission.

0Report on STD-43 form. Report cases of syphilis with active lesions by telephone.

5Report on CDC72.5 (f.5.2431) card.

*Report to the Louisiana Genetic Diseases Program Office by telephone (504) 568-5070 or FAX (504) 568-7722.

**Report on DDP-3 form; preliminary phone report from ER encouraged (504) 568-2509. Information contained in reports required under this section shall remain confidential in accordance with the law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4; R.S. 40:2 and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:1386, (December 1992), amended LR 20: 1294 (November 1994); LR 28: 2:022 All persons prior to or at the time of employment at any medical or 24-hour residential facility requiring licensing by the Department of Health and Hospitals or any person prior to or at the time of commencing volunteer work involving direct patient care at any medical or 24-hour residential facility requiring licensing by the Department of Health and Hospitals shall be free of tuberculosis in a communicable state as evidenced by either

(1) a negative purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method;

(2) a normal chest x-ray, if the skin test is positive; or

(3) a statement from a licensed physician certifying that the individual is non-infectious if the x-ray is other than normal. The individual shall not be denied access to work solely on the basis of being infected with tuberculosis, provided the infection is not communicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4; R.S. 40:2 and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:1386 (December 1992), amended LR 20:1294 (November 1994), LR 28: 2:023 Any employee or volunteer at any medical or 24-hour residential facility requiring licensing by the Department of Health and Hospitals who has a positive purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, or a chest x-ray other than normal, in order to remain employed or continue work as a volunteer, shall complete an adequate course of chemotherapy for tuberculosis as prescribed by a Louisiana licensed physician, or shall present a signed

statement from a Louisiana licensed physician stating that chemotherapy is not indicated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4; R.S. 40:2 and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:1386 (December 1992), amended LR 29:1294 (November 1994), LR 28: 2:024 Any employee or volunteer at any medical or 24-hour residential facility requiring licensing by the Department of Health and Hospitals who has a negative purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, in order to remain employed or to continue to work as a volunteer, shall be re-tested annually as long as the purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, remains negative. Any employee or volunteer converting from a negative to a positive purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, shall be referred to a physician and followed as indicated in Section 2:023.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4; R.S. 40:2 and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:1386 (December 1992), amended LR 20:1294 (November 1994), LR 28:

Interested persons may submit written comments or questions to: Dr. Raoult Ratard, State Epidemiologist, Infectious Disease Epidemiology Section, Office of Public Health, Department of Health and Hospitals, P.O. Box 60630, New Orleans, LA 70160 within twenty days after the publication of this notice in the Louisiana Register.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Control of Disease

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

It is estimated that the only cost involved in implementation of this rule will be a one-time cost of approximately \$320 as incurred for publication of the Notice of Intent and Final Rule in the *Louisiana Register* in FY 2001-02.

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 as a result of the proposed rule.

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

There are no costs and/or economic benefits that will directly affect persons or non-governmental groups as a result of the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipate effect on competition and employment as a result of the proposed rule.

Madeline W. Mcandrew
Assistant Secretary
0111#093

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of Public Health

Retail Food Establishments (LAC XXIII.Chapters 1-47)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health, pursuant to the authority in R.S. 40:5, proposes to repeal Chapter XXII, Chapter XXIII, and Chapter XXIII, A and promulgate Part XXIII of the Louisiana State Sanitary Code to be in accordance with current Food and Drug Administration, (FDA), Food Code guidelines and codified in accordance with the Administrative Procedure Act as follows:

Title 51

PUBLIC HEALTHCSANITARY CODE

Part XXIII. Retail Food Establishments

Chapter 1. Definitions

§101. Definitions [formerly paragraph 23:001]

A. Terms not defined or referenced herein shall have the meanings as defined in LAC 51:1. In any instance where a term defined herein is also defined in one or more Parts of LAC 51, the definition contained in this Part shall govern this Part.

"a" -water activity.

*Additive*Ca defined in Federal Food, Drug and Cosmetic Act 201(s), [21 U.S.C. 321(s)], any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food (including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any such use), if such substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures (or, in the case of a substance used in food prior to January 1, 1958, through either scientific procedures or experience based on common use in food) to be safe under the conditions of its intended use; except that such term does not include:

- a. a pesticide chemical in or on a raw agricultural commodity; or
- b. a pesticide chemical; or
- c. a color additive; or
- d. any substance used in accordance with a sanction or approval granted prior to the enactment of this paragraph pursuant to this Act, the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) or the Meat Inspection Act of March 4, 1907 (34 Stat. 1260), as amended and extended (21 U.S.C. 71 et seq.); or
- e. a new animal drug; or
- f. an ingredient described in paragraph (ff) of this Act in, or intended for use in, a dietary supplement;
- g. and defined in 21 CFR 170.3(e)(1)CFood additives include all substances not exempted by section 201(s) of this Act, the intended use of which results or may reasonably be expected to result, directly or indirectly, either in their becoming a component of food or otherwise affecting the characteristics of food. A material used in the

production of containers and packages is subject to the definition if it may reasonably be expected to become a component, or to affect the characteristics, directly or indirectly, of food packed in the container. "Affecting the characteristics of food" does not include such physical effects, as protecting contents of packages, preserving shape, and preventing moisture loss. If there is no migration of a packaging component from the package to the food, it does not become a component of the food and thus is not a food additive. A substance that does not become a component of food, but that is used, for example, in preparing an ingredient of the food to give a different flavor, texture, or other characteristic in the food, may be a food additive.

*Adulterated Food*Ca defined in §607 of the State Food, Drug, and Cosmetic Law (R.S. 40:601 et seq.), a food is considered adulterated if it has been found to be such by any department of the United States government, or:

- a. if it contains any poisonous or deleterious substances, added or otherwise, which may render it dangerous to health, or any added poisonous or deleterious substance which is prohibited by R.S. 40:611 or which is in excess of the limits of tolerance prescribed by regulations of the department;
- b. if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for food;
- c. if it has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth or whereby it may have been rendered injurious to health;
- d. if it is the product of a diseased animal or of an animal which has died otherwise than by slaughter;
- e. if its container is composed of any poisonous or deleterious substance which may render the contents injurious to health;
- f. if any valuable constituent has been in whole or in part abstracted therefrom;
- g. if any substance has been substituted wholly or in part therefore;
- h. if damage or inferiority has been concealed in any manner;
- i. any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, reduce its quality or strength, or create a deceptive appearance;
- j. if it contains a coal-tar color other than one from a batch that has been certified in accordance with regulations of the department;
- k. if it is confectionery or ice cream and contains any alcohol, resinous glaze, or non-nutritive substance except harmless coloring, harmless flavoring, natural gum, and pectin. However, this Paragraph does not apply to any confectionery or ice cream by reason of its containing less than one-half of one percent by volume of alcohol, derived solely from the use of flavoring extracts, or to any chewing gum by reason of its containing harmless non-nutritive masticatory substance.

*Approved Supplier*Ca producer, manufacturer, distributor or food establishment that is acceptable to the enforcement agency based on a determination of conformity with applicable laws, or, in the absence of applicable laws, with current public health principles and practices, and

generally recognized industry standards that protect public health.

Base of Operations/CommissaryCa catering establishment, restaurant, or any other properly equipped place in which food, containers, or supplies are kept, handled, prepared, packaged or stored.

Bed and Breakfast EstablishmentCa privately owned house where rooms are let and a breakfast is included in the rent. See Food Establishment.

BeverageCa liquid for drinking, including water.

Bulk FoodCprocessed or unprocessed food in aggregate containers from which quantities desired by the consumer are withdrawn.

CIPCclean in place by the circulation or flowing by mechanical means through a piping system of a detergent solution, water rinse, and sanitizing solution onto or over equipment surfaces that require cleaning, such as the method used, in part, to clean and sanitize a frozen dessert machine.

Certification NumberCa unique combination of letters and numbers assigned by a shellfish control authority to a molluscan shellfish dealer according to the provisions of the National Shellfish Sanitation Program.

ComminutedCreduced in size by methods including chopping, flaking, grinding, or mincing and restructured or reformulated.

ConsumerCa "person" who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a "food" establishment or food processing plant and does not offer the "food" for resale.

Convenience StoreCa retail food store which is usually easily accessible and deals mostly with prepackaged food products.

Corrosion-Resistant MaterialCa material that maintains acceptable surface cleanability characteristics under prolonged influence of the "food" to be contacted, the normal use of cleaning compounds, and "sanitizing" solutions, and other conditions of the environment.

Critical Control PointCa as defined in the 1999 Food Code published by FDA, a point or procedure in a specific "food" system where loss of control may result in an unacceptable health risk.

Critical ItemCa provision of this code that, if in noncompliance, is more likely than other violations to contribute to food contamination, illness, or environmental degradation, such as, but not limited to a potentially hazardous food stored at improper temperature, poor personal hygienic practices, not sanitizing equipment and utensils, no water, contaminated water sources, sewage backup, severe insect and rodent infestation, and chemical contamination.

Deli/DelicatessenCa food establishment which generally serves ready to eat food products such as sandwiches, cold cuts, cheeses, prepared salads and some prepared hot foods.

Drinking WaterCsee potable water.

Dry Storage AreaCa room or area designated for the storage of "packaged" or containerized bulk "food" that is not potentially hazardous and dry goods such as "single-service" items.

Easily CleanableCsurfaces that are readily accessible and made of such materials, finish and so fabricated that

residue may be effectively removed by normal cleaning methods.

EmployeeCthe permit holder, person in charge, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in a food establishment.

EquipmentCan article that is used in the operation of a food establishment and retail food store/market such as, but not limited to, a reach-in or walk-in refrigerator or freezer, grinder, ice maker, meat block, mixer, oven, scale, sink, slicer, stove, table, thermometers, vending machine, or warewashing machine.

Fairs and FestivalsCa gathering of persons for an event such as a bazaar, carnival, circus, public exhibition or other similar gathering for the purpose of celebration, competition, entertainment, distribution or sale of foods or goods, exhibition, religious activity, or other such purposes, which will operate for only a temporary period in any one location.

FoodCa raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.

Foodborne Disease OutbreakCthe occurrence of two or more cases of a similar illness resulting from the ingestion of a common food.

Food Contact SurfacesCa surface of equipment or a utensil with which food normally comes in contact with, or a surface of equipment or a utensil from which food may drain, drip or splash into a food or onto a surface normally in contact with food.

Food EstablishmentCan operation that stores, prepares, packages, serves, vends or otherwise provides food for human consumption. The term includes restaurants, cafeterias, caterers, delicatessens, bars, lounges, or any other facility that prepares food for individual service or for a group of people, whether consumption is on or off the premises and regardless if there is a charge for the food. The term does not include:

a. private homes where food is prepared or served for individual family consumption and a kitchen in a private home if only "food" that is not "potentially hazardous" is prepared for sale or service at a function such as a religious or charitable organization's bake sale if allowed by "law" and if the "consumer" is informed by a clearly visible placard at the sales or service location that the "food" is prepared in a kitchen that is not subject to regulation and inspection by the "regulatory authority";

b. a kitchen in a private home, such as a bed-and-breakfast operation that prepares and offers food to guests if the home is owner occupied, the number of available guest bedrooms does not exceed six, breakfast is the only meal offered, the number of guests served does not exceed 18, and the consumer is informed by statements contained in published advertisements, mailed brochures, and placards posted at the registration area that the food is prepared in a kitchen that is not regulated and inspected by the Office of Public Health.

Food Vendor/Food ConcessionaireCan person who handles food or drink during preparation or serving, or who comes in contact with any eating or drinking utensils, or who is employed at any time in a room in which food or drink is prepared or served in a temporary food service.

Game Animals—Can animal, the products of which are food, that is not classified by law as cattle, sheep, swine, goat, poultry, fish, and game birds or small animals as described in Chapter X of the Louisiana State Sanitary Code.

Garbage—the putrescible components of refuse which are subject to spoilage, rot, or decomposition. It includes wastes from the preparation and consumption of food, vegetable matter, and animal offal and carcasses.

HAACPC—Hazard Analysis Critical Control Point.

HACCP Plan—a written document that delineates the formal procedures for following the Hazard Analysis Critical Control Point principles developed by The National Advisory Committee of Microbiological Criteria for Foods.

Hermetically Sealed Container—a container that is designed and intended to be secure against the entry of microorganisms and, in the case of low acid canned foods, to maintain the commercial sterility of its contents after processing.

Highly Susceptible Population—a group of "persons" who are more likely than other populations to experience foodborne disease because they are immunocompromised, or for the purposes of this Part, older adults in a facility that provides health care or assisted living services, such as a hospital or nursing home; or preschool age children in a facility that provides custodial care, such as a day care center.

Hot Holding Temperature—food stored for hot holding and service shall be held at a temperature of 140°F (60°C) or higher with the exception of roast beef. If roast beef is cooked in accordance with §1305.A.7 the minimum hot holding temperature shall be 130°F (54°C).

Individual Food Operator/Responsible Person—the person responsible for operating the individual temporary food service.

Injected—manipulating a meat through tenderizing with deep penetration or injecting the meat such as with juices which may be referred to as "injecting," "pinning," or "stitch pumping."

Itinerant Food Establishment—any fixed or mobile food establishment which operates on a temporary or seasonal basis.

Itinerant Retail Food Store/Market—any fixed or mobile retail food store/market which operates on a temporary or seasonal basis.

Kiosk—a small structure used as a food and/or beverage booth.

Kitchenware—food preparation and storage utensils.

Label—the principal display or displays of written, printed, or graphic matter upon any food or the immediate container thereof, or upon the outside container or wrapper, if any, of the retail package of any food.

Labeling—includes all labels and other written, printed and graphic matter, in any form whatsoever, accompanying any food.

Linens—fabric items such as cloth hampers, cloth napkins, table cloths, wiping cloths, and work garments including cloth gloves.

Market—a retail food store or food market which stores, prepares, packages, serves, vends or otherwise provides food products such as beverages, eggs, meat, milk, produce, seafood or other similar products.

Microorganisms—yeasts, molds, fungi, bacteria, parasites and viruses including, but not limited to, species having public health significance. The term "undesirable microorganisms" includes those microorganisms that are of public health significance, that subject food to decomposition, that indicate that food is contaminated with filth, or that otherwise may cause food to be adulterated within the meaning of the Food, Drug and Cosmetic Laws and Regulations.

Mobile Food Establishment—a vehicle-mounted food establishment designed to be readily movable.

Mobile Retail Food Store/Market—a vehicle-mounted retail food store/market designed to be readily movable.

Multi-Service Articles—reusable articles for the service of foods made of smooth, impervious material and approved by the State Health Officer.

Noncritical Item—all provisions in this Part that are not classified as critical items.

Offal—waste parts, especially of a butchered animal, including but not limited to bones, cartilage, fatty tissue and gristle.

Open Air Market—a site that deals in produce that is normally peeled or washed prior to consumption, honey, jellies and syrups.

Organizer/Promoter/Chairman—that person responsible for managing a festival or fair. In the event of his/her unavailability, the assistant shall be deemed the responsible person.

"pH"—the symbol for the negative logarithm of the hydrogen ion concentration, which is a measure of the degree of acidity or alkalinity of a solution. Values between 0 and 7 indicate acidity and values between 7 and 14 alkalinity. The value for pure distilled water is 7, which is considered neutral.

PPM—parts per million, (mg/l) which is the metric equivalent.

Packaged—bottled, canned, cartoned, securely bagged, or securely wrapped.

Permit—the document issued by the "Department" that authorizes a "person" to operate a "food establishment" or "retail food store/market."

Permit Holder—the entity that:

a. is legally responsible for the operation of the establishment such as the owner, the owner's agent, or other "person;" and

b. possesses a valid "permit" to operate an establishment.

Person—an association, a corporation, individual, partnership, other legal entity, governmental subdivision or agency.

Person in Charge—the individual present at a food establishment or retail food store/market who is responsible for the operation at the time of inspection.

Personal Care Items—

a. items or substances that may be poisonous, toxic, or a source of contamination and are used to maintain or enhance a "person's" health, hygiene, or appearance;

b. includes items such as medicines; first aid supplies; and other items such as cosmetics, and toiletries such as toothpaste and mouthwash.

Pest—refers to any objectionable animal or insect including, but not limited to, birds, roaches, rodents, flies, and larvae.

Poisonous or Toxic Materials—substances that are not intended for ingestion including, but not limited to:

- a. cleaners and "sanitizers" which include cleaning and "sanitizing" agents and agents such as caustics, acids, drying agents, polishes, and other chemicals;
- b. pesticides, except "sanitizers," which include substances such as insecticides, rodenticides, herbicides;
- c. substances necessary for the operation and maintenance of the establishment such as nonfood grade lubricants and "personal care items" that may be deleterious to health.

Potable Water—water having bacteriological, physical, radiological and chemical qualities that make it safe and suitable for use by people for drinking, cooking or washing.

Potentially Hazardous Food

- a. food that is natural or synthetic and is in a form capable of supporting:
 - i. the rapid and progressive multiplication of infectious or toxigenic microorganisms;
 - ii. the multiplication and toxin production of *Clostridium botulinum*; or
 - iii. in shell eggs, the multiplication of *Salmonella enteritidis*.
- b. *potentially hazardous food* includes an animal food (a food of animal origin) that is raw or heat-treated; a food of plant origin that is heat-treated or consists of raw seed sprouts; cut melons; and garlic and oil mixtures.
- c. potentially hazardous food does not include:
 - i. an air-cooled hard-boiled-egg with shell intact;
 - ii. a food with a water activity (a_w) value of 0.85 or less;
 - iii. a food with a hydrogen ion concentration (pH) level of 4.6 or below when measured at 75°F (24°C);
 - iv. a food, in an unopened hermetically sealed container, that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution; or
 - v. a food for which a variance granted by the regulatory authority is based upon laboratory evidence demonstrating that rapid and progressive multiplication of infectious and toxigenic microorganisms or the slower multiplication of *C. botulinum* cannot occur.

Premises

- a. the physical facility, its contents, and the contiguous land or property under the control of the "permit holder"; or
- b. the physical facility, its contents, and the land or property not described under Subparagraph a of this definition if its facilities and contents are under the control of the "permit holder" and may impact establishment personnel, facilities, or operations, and an establishment is only one component of a larger operation such as a health care facility, hotel, motel, school, recreational camp, or prison.

Pushcart—a mobile food establishment or retail food store/market propelled by a person.

Ready-to-Eat-Food—food that is in a form that is edible without washing, cooking, or additional preparation by the

food establishment or the consumer and that is reasonably expected to be consumed in that form.

Recognized Louisiana Festival or Fair—those fairs or festivals that are officially acknowledged, in writing, as recognized by a state, parish, or municipal governmental body or by the Louisiana Association of Fairs and Festivals.

Reconstituted—dehydrated food products recombined with water or other liquids.

Reduced Oxygen Packaging—the reduction of the amount of oxygen in a package by mechanically evacuating the oxygen; displacing the oxygen with another gas or combination of gases; or otherwise controlling the oxygen content in a package to a level below that normally found in the surrounding atmosphere, which is 21 percent oxygen. This may include methods referred to as altered atmosphere, modified atmosphere, controlled atmosphere, low oxygen, and vacuum packaging including sous vide.

Refuse—any garbage, rubbish, sludge from a food establishment, retail food store/market, waste treatment plant, water supply treatment plant, or air pollution control facility. It also includes other discarded material such as solid, liquid, semi-solid, or contained gaseous material resulting from either industrial, commercial, mining, or agricultural operations, or from community activities. It does not include solid or dissolved material in domestic sewage, irrigation return flow, industrial discharges which are point sources, or radioactive wastes.

Regulatory Authority—the local, state or federal enforcement body or authorized representative having jurisdiction over the food establishment or retail food store/market.

Retail Food Manufacturer—an establishment in which food is manufactured or packaged for human consumption and is sold only at the site of manufacture, such as but not limited to bakery products and candy.

Retail Food Store/Market—all types of food markets including convenience, fixed, mobile and temporary food stores. These may also be referred to as groceries. Larger retail food stores may also include bakeries and delicatessens.

Rubbish—all non-putrescible waste matter, except ashes, from any public or private establishments, institution, or residence. It also includes construction and demolition wastes.

Safe Material—an article manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any "food."

Sanitization—the application of cumulative heat or chemicals on cleaned "food-contact surfaces" that, when evaluated for efficacy, is sufficient to yield a reduction of 5 logs, which is equal to a 99.999-percent reduction of representative disease microorganisms of public health importance.

Seafood—includes but is not limited to fish, shellfish, edible crustaceans, marine and freshwater animal food products.

Sealed—free of cracks or other openings that allow the entry or passage of moisture.

Seasonal—a recurrent period that is characterized by certain seasons of the year, occupations, festivities, or crops;

any period of time that is legally available to the hunter, fisherman, or trapper. These seasons are legally set by government regulatory agencies such as the State Department of Wildlife and Fisheries, State Department of Agriculture or other such agencies.

Single-Service Articles Ctableware, carry-out utensils, and other items such as bags, containers, cups, lids, closures, plates, knives, forks, spoons, paddles, napkins, placemats, stirrers, straws, toothpicks, and wrappers that are designed and constructed for one time, one person use and then discarded.

Single-Use Articles C utensils and bulk food containers designed and constructed to be used once and discarded. "Single-use articles" includes items such as wax paper, butcher paper, plastic wrap, formed aluminum food containers, jars, plastic tubs, or buckets, bread wrappers, pickle barrels, and number 10 cans.

Slacking C the process of moderating the temperature of a "food" such as allowing a "food" to gradually increase from a temperature of -23EC (-10EF) to -4EC (25EF) in preparation for deep-fat frying or to facilitate even heat penetration during the cooking of previously block-frozen "food" such as spinach.

Smoked Food C food which has been colored or flavored by natural or liquid smoke.

Substantial Renovation C

a. alterations or repairs made within a 12-month period, costing in excess of 50 percent of the then physical value of the existing building; or

b. alterations or repairs made within a 12-month period, costing in excess of \$15,000; or

c. alterations or repairs made within a 12-month period, involving a change in "occupancy classification" or use of the property;

d. the physical value of the building in Subparagraph a of this Paragraph may be established by an appraisal not more than three years old, provided that said appraisal was performed by a certified appraiser or by the tax assessor in the parish where the building is located;

e. the cost of alterations or repairs in Subparagraphs a or b of this Paragraph may be established by:

i. an estimate signed by a licensed architect or a licensed general contractor, or

ii. by copies of receipts for the actual costs.

Tableware C eating, drinking, and serving utensils for table use such as flatware including forks, knives and spoons; hollowware including bowls, cups, serving dishes, tumblers; and plates.

Temperature Measuring Device C a thermometer, thermocouple, thermistor, or other device that indicates the temperature of food, air, or water.

Temporary Food Establishment C a fixed or mobile food establishment that operates for a period of time of not more than 21 consecutive days in conjunction with a single event in a single location such as, but not limited to a festival or fair.

Temporary Retail Food Store/Market C a fixed or mobile food store/market which operates for a period of time no more than 21 consecutive days in conjunction with a single event in a single location such as, but not limited to a festival or fair.

Temporary Food Service C a "temporary food establishment" or "temporary retail food store/market."

Utensil C a food-contact implement or container used in the storage, preparation, transportation, dispensing, sale, or service of food, such as kitchenware or tableware that is multi-use, single-service, or single-use; gloves used in contact with food; and food temperature measuring devices.

Warewashing C the cleaning and sanitizing of food-contact surfaces of equipment and utensils.

Water Activity C (a_w) a measure of the free moisture in a food and is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature.

Wholesome C food which is in sound condition, clean, free from adulteration or contamination and is otherwise suitable for human consumption.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 3. General Requirements

§301. Effective Date of Title

A. The provisions of this Title shall have effect from the date of publication hereof as a rule in the *Louisiana Register*. Upgrading of such buildings and facilities shall be required when:

1. the construction of buildings and facilities was not previously approved by the state health officer pursuant to sanitary code requirements then in effect;

2. substantial renovation of, or additions to, such buildings or facilities is undertaken;

3. the real property ownership, or the occupancy classification of the business located therein changes subsequent to the effective date hereof;

4. the business ownership (occupant) changes subsequent to the effective date, except that the upgrading of restroom plumbing fixtures shall not be required where only the business ownership (occupant) changes if the construction of restroom plumbing fixtures was approved by the state health officer pursuant to sanitary code requirements then in effect; or

5. a serious health threat to the public health exists, unless otherwise specifically provided hereinafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§303. Interpretation [formerly paragraph 23:002]

A. This Part shall be interpreted and applied to promote its underlying purpose of protecting the public health.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§305. Food Safety Certification

[formerly paragraph 23:002-2]

A. The owner or a designated employee of each food establishment shall hold a "food safety certificate" from the department exclusively on behalf of that food establishment. The certificate shall be required to be renewed every five years.

B. Any food establishments with food sales of less than \$125,000 annually shall not be required to comply with this

Section until July 1, 2002. However, any establishment may apply for such certificate prior to such date. Those food establishments permitted after July 1, 2002 shall comply with this Section within 60 days of permit issuance.

C. To obtain a department food safety certificate, the following is required.

1. The individual must complete a course provided by an approved training program. The department shall approve all training programs and shall maintain a list of these training programs. These programs shall include, but are not limited to, the standards set forth in the ServSafe Program established by the Educational Foundation of the National Restaurant Association, or other programs recognized by the food service industry and the department.

a. Instructors/trainers shall meet the criteria established by the Educational Foundation of the National Restaurant Association or other instructor/trainer requirements established by the food service industry and the department.

b. The department shall approve training programs administered or approved by another state, political subdivision, or other jurisdiction with standards that meet or exceed those established in this code.

2. The individual must pass a written exam approved by the department before qualifying for the certificate. This test will meet the standards as described in Paragraph 1 above.

3. The individual must submit a completed application to the department with:

a. satisfactory evidence that he/she has completed an approved training program which includes passing a written examination; and

b. a \$25 fee for each certificate.

4. Upon receipt and approval of the documentation and fee described in Paragraph 3 above, the department shall then issue a food safety certificate to the applicant.

5. The permit holder shall display a current state food safety certificate in a location in the food establishment conspicuous to the public.

D. Certificates from the department shall be required to be renewed every five years for a \$25 fee. A person shall pass another written exam as described in Paragraph 2 above before the certificate is renewed.

E. No parish or municipality in Louisiana shall enforce any ordinance or regulation requiring a food establishment or any of its employees to complete a Food Safety training program or test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§307. Submission of Plans

[formerly paragraph 23:003]

A. Whenever a food establishment or retail food store/market is constructed, substantially renovated, or a change of real property or business ownership occurs, or the occupancy classification changes, plans and specifications shall be submitted to the state health officer for review and approval. The plans and specifications must be approved before construction and renovation begins and shall indicate the proposed type of operation, anticipated volume and types of food products to be stored, prepared, packaged and/or served along with the proposed layout of the facility,

mechanical plans, construction materials and the types and location and specifications of all fixed and mobile equipment to be used in the establishment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§309. Preoperational Inspection

[formerly paragraph 23:004]

A. The state health officer may conduct one or more preoperational inspections to verify that the food establishment or retail food store/market is constructed and equipped in accordance with the approved plans and is in compliance with all provisions of this Title.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§311. Hazard Analysis Critical Control Point

(HACCP) [formerly paragraph 22:02-4]

A. A food establishment or retail food store/market that packages food using a reduced oxygen packaging method shall have a Hazard Analysis Critical Control Point (HACCP) plan and provide the information required in §4121.

B. A HACCP plan shall contain:

1. a categorization of the types of Potentially Hazardous Foods that are specified in the menu such as soups and sauces, salads, and bulk, solid foods such as meat roasts, or of other foods that are specified by the department.

2. a flow diagram by specific food or category type identifying Critical Control Points and providing information on the following;

a. ingredients, materials, and equipment used in the preparation of that food; and

b. formulations or recipes that delineate methods and procedural control measures that address the food safety concerns involved;

3. a supervisory training plan that addresses the food safety issues of concern;

4. a statement of standard operating procedures for the plan under consideration including clearly identifying;

a. each critical control point;

b. the critical limits for each critical control point;

c. the method and frequency for monitoring and controlling each critical control point by the employee designated by the person in charge;

d. the method and frequency for the person in charge to routinely verify that the employee is following standard operating procedures and monitoring critical control points;

e. action to be taken by the person in charge if the critical limits for each critical control point are not met;

f. records to be maintained by the person in charge to demonstrate that the HACCP plan is properly operated and managed; and

5. additional scientific data or other information, as required by the department supporting the determination that food safety is not compromised by the proposal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 5. Permits

§501. General

[formerly paragraph 23:125]

A. No person shall operate a food establishment or retail food store/market of any type without first having received a valid permit to operate from the state health officer. Permits are not transferable. A valid permit shall be posted in a location of the establishment conspicuous to the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§503. To Obtain a Permit from the State Health

Officer: [formerly paragraph 23:126-1, 23:126-2, 23:126-3]

A. The owner, president of the corporation, or other such officer duly delegated by the corporation or partnership shall make written application for a permit to operate and submit plans as described in §307 to the state health officer.

B. After plans and specifications have been reviewed and approved, the owner, president of the corporation, or other such officer shall request a preoperational inspection be made as described in §309 to determine compliance with all provisions of this Title.

C. A permit to operate shall be issued by the state health officer to the applicant if an inspection reveals that the proposed food establishment or retail food store/market and applicant has complied with all the provisions of this Title.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 7. Employee Health

§701. General

[formerly paragraph 23:031]

A. All employees shall meet the requirements of Part I, §117.A, B, Employee Health and Chapter 2, The Control of Diseases, of this Title. The employee shall report information to the person in charge about their health and activities as they relate to infectious diseases that are transmissible through food. The person in charge shall be responsible for complying with Part I, §117 and excluding the employee from the food establishment to prevent the likelihood of foodborne disease transmission.

B. All employees shall report to the person in charge any symptom caused by illness, infection, or other source that is:

1. associated with an acute gastrointestinal illness such as diarrhea, fever, vomiting, jaundice or sore throat with fever; or

2. a lesion containing pus such as a boil or infected wound that is open or draining and is:

a. on the hands or wrist, unless an impermeable cover such as a finger cot, or stall protects the lesion and a single-use glove is worn over the impermeable cover;

b. on exposed portions of the arms, unless the lesion is protected by an impermeable cover; or

c. on other parts of the body, unless the lesion is covered by a dry, durable, tight-fitting bandage.

C. The person in charge shall restrict employees from working with exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles, in a food establishment or retail food store/market if the

employee is suffering a symptom specified in Subsection B of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 9. Personal Cleanliness and Hygienic Practices

§901. Handwashing

[formerly paragraph 23:032]

A. Employees shall thoroughly wash their hands and exposed portions of their arms with soap and warm water before starting work, before applying gloves, during work as often as necessary to keep them clean, and after smoking, using tobacco, eating, drinking, coughing, sneezing, handling raw food, using the toilet.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§903. Fingernails

[formerly paragraph 22:06-2]

A. Employees shall keep their fingernails clean and trimmed not to exceed the end of the fingertip. An employee shall not wear nail polish or artificial fingernails when working with exposed food.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§905. Jewelry

[formerly paragraph 22:06-3]

A. Employees may not wear jewelry on their arms and hands while preparing food. This does not apply to a plain ring such as a wedding band.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§907. Outer Clothing

[formerly paragraph 22:06-4]

A. Employees shall wear clean outer clothing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§909. Hand Sanitizers

A. Employees may apply hand sanitizers only to hands that are cleaned as specified in §901. Hand sanitizers shall comply with all state and federal regulations and be used in accordance with label directions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§911. Eating and Drinking

[formerly paragraph 23:034-1]

A. Employees shall eat and drink only in designated areas where the contamination of exposed food, equipment, utensils or other items needing protection cannot result. An employee may drink while preparing food from a closed beverage container if the container is handled properly to prevent contamination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§913. Using Tobacco

[formerly paragraph 23:034-2]

A. Employees shall not use tobacco in any form while preparing or serving food. Employees shall use tobacco only in designated areas such as described in §4105.C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§915. Hair Restraints

[formerly paragraph 23:033-2]

A. Employees shall wear hair restraints such as hats, hair coverings or nets, beard restraints, and clothing that covers body hair, that are designed and worn to effectively keep their hair from contacting exposed food, equipment, utensils and other items needing protection. This does not apply to employees such as counter staff who only serve beverages and wrapped or packaged food items if they present a minimal risk of contaminating exposed food, clean equipment, utensils, and linens, and unwrapped single service and single use articles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§917. Food Contamination

[formerly paragraph 22:07-4]

A. Employees experiencing persistent sneezing, coughing or a runny nose may not work with exposed food, equipment, utensils or other items needing protection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§919. Handling

[formerly paragraph 22:07-5]

A. Employees shall handle soiled tableware in a manner to prevent the contamination of clean tableware by their hands. Employees may not care for or handle animals allowed under §4101.B of this Part while preparing or serving food, except employees may handle or care for fish in aquariums, or molluscan shellfish, or crustacea in display tanks or storage when they wash their hands as specified under §901 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 11. Food Supplies

§1101. General

[formerly paragraph 22:08-1]

A. All food shall be safe, unadulterated and honestly presented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1103. Source

[formerly paragraph 22:08-2]

A. Food shall be obtained from sources that comply with law. Food prepared in a private home may not be used or offered for human consumption in any food establishment or retail food store/market. This section shall not apply to any jellies, preserves, jams, honey and honeycomb products prepared in private homes, when the gross annual sales are less than \$5000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:4.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1105. Package

[formerly paragraph 22:08-3]

A. Food packages shall be in a good condition and protect the integrity of the contents so that the food is not exposed to adulteration or potential contaminants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1107. Labeling

[formerly paragraph 22:08-4]

A. Packaged food shall be labeled as specified by law. All bulk food storage containers shall be properly labeled according to law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1109. Raw Shellfish Consumer Information Message

[formerly paragraph 22:08-5.1]

A. All establishments that sell or serve raw oysters must display signs, menu notices, table tents, or other clearly visible messages at point of sale with the following wording: **Ⓐ THERE MAY BE A RISK ASSOCIATED WITH CONSUMING RAW SHELLFISH AS IS THE CASE WITH OTHER RAW PROTEIN PRODUCTS. IF YOU SUFFER FROM CHRONIC ILLNESS OF THE LIVER, STOMACH OR BLOOD OR HAVE OTHER IMMUNE DISORDERS, YOU SHOULD EAT THESE PRODUCTS FULLY COOKED.Ⓑ** In addition, this message must appear on the principal display panel or top of containers of pre-packaged raw oysters. This may be done by printing on the container or by pressure sensitive labels. In addition, the following message must appear on the tag of each sack or other container of unshucked raw oysters: **"THERE MAY BE A RISK ASSOCIATED WITH CONSUMING RAW SHELLFISH AS IS THE CASE WITH OTHER RAW PROTEIN PRODUCTS. IF YOU SUFFER FROM CHRONIC ILLNESS OF THE LIVER, STOMACH OR BLOOD OR HAVE OTHER IMMUNE DISORDERS, YOU SHOULD EAT THESE PRODUCTS FULLY COOKED.Ⓐ"**

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1111. Exemption to Raw Shellfish Consumer Information Message

[formerly paragraph 22:08-5.2]

A. Food establishments that exclusively serve raw molluscan shellfish that have been subjected to a process recognized by the state health officer as being effective in reducing the bacteria *Vibrio vulnificus* to non-detectable

levels may apply for an exemption from the mandatory consumer information notification requirement. Food establishments interested in obtaining an exemption shall certify in writing to the state health officer that it shall use exclusively for raw consumption only molluscan shellfish that have been subjected to the approved process. Upon receipt and verification of that communication, the state health officer may confirm the establishment as being exempt from the requirement of displaying the consumer information message. The food establishment's certification must be sent to the state health officer at the following address:

Louisiana Office of Public Health
P.O. Box 629
Baton Rouge, LA 70821-0629

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1113. Hermetically Sealed Containers
[formerly paragraph 22:08-6]

A. Food in hermetically sealed containers shall be obtained from a licensed and/or regulated food processing plant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1115. Milk

[formerly paragraph 22:08-7]

A. Fluid, frozen, dry milk and milk products shall be obtained from sources with Grade A Standards as specified in law and Chapter VII and Chapter VIII of this Title.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1117. Seafood

[formerly paragraph 22:08-8]

A. Fish, shellfish, edible crustaceans, marine and fresh water animal food products shall be obtained from sources according to law and Chapter IX of this Title. Shellstock tags shall be retained by the food establishment or retail food store/market for 90 days after service or sale to the consumer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1119. Eggs

[formerly paragraph 22:08-9]

A. Shell eggs shall be received clean and sound according to law.

B. Liquid, frozen and dry egg products shall be obtained pasteurized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1121. Poultry and Meats

[formerly paragraph 22:08-10]

A. Poultry and meat products shall be obtained from sources according to law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1123. Game Animals

[formerly paragraph 22:08-11]

A. Game animals may be received for sale if they are under a routine inspection program conducted by a regulatory authority or raised, slaughtered, and processed under a voluntary inspection program by a regulatory authority.

B. If retail food markets are requested by an individual to process wild deer meat, they must process this meat in accordance with the guidelines established by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 13. Temperature

§1301. Temperature Control

[formerly paragraph 22:09-1]

A. Except as specified in §1303, all refrigerated potentially hazardous foods shall be received at a temperature of 41EF (5EC) or below.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1303. Exceptions

[formerly paragraph 22:09-2]

A. Shell eggs, milk and molluscan shellstock may be received at a temperature not to exceed 45EF (7.2EC) as specified by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1305. Cooking/Reheating

[formerly paragraph 22:09-3]

A. Foods shall be cooked to heat all parts of the food to a temperature and for a time that are at least:

1. 165EF (74EC) or above for 15 seconds for wild game, poultry, stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, stuffed ratites or stuffing containing fish, meat or poultry;

2. 155EF (68EC) or above for 15 seconds for comminuted fish, comminuted meats, injected meats, ratites and raw pooled eggs;

3. 165EF (74EC) or above when foods are cooked or reheated in microwave ovens and the food shall be rotated and stirred throughout to compensate for uneven distribution of heat;

4. 145EF (63EC) or above for 15 seconds for pork and all other foods;

5. 165EF (74EC) or above for 15 seconds in all parts of the food when reheating all potentially hazardous food that is cooked, cooled, and reheated for hot holding or serving;

6. 130EF (54EC) minimum internal temperature for beef roasts or to a temperature and time that will cook all parts of the roast as required by law;

a. in an oven that is preheated to the temperature specified for the roast's weight in the following chart and that is held at that temperature; and

Oven Type	Oven Temperature Based on Roast Weight	
	Less than 4.5 kg (10 lbs.)	4.5 kg (10 lbs.) or more
Still Dry	350EF (177EC) or more	250EF (121EC) or more
Convection	325EF (163EC) or more	250EF (121EC) or more
High Humidity ¹	250EF (121EC) or less	250EF (121EC) or less

¹Relative humidity greater than 90 percent for at least 1 hour as measured in the cooking chamber or exit of the oven; or in a moisture-impermeable bag that provides 100 percent humidity.

b. as specified in the following chart, to heat all parts of the food to a temperature and for the holding time that corresponds to that temperature;

Temperature	Time in Minute	Temperature	Time in Minutes	Temperature	Time in Minutes
130EF (54EC)	121	136EF (58EC)	32	142EF (61EC)	8
132EF (56EC)	77	138EF (59EC)	19	144EF (62EC)	5
134EF (57EC)	47	140EF (60EC)	12	145EF (63EC)	3

Holding time may include post-oven heat rise.

7. 140EF (60EC) or above for 15 seconds for raw vegetables and fruit.

B. Exceptions:

1. raw or undercooked whole muscle, intact beef steak to be served or offered for sale in a ready to eat form shall be cooked to 145EF (63EC) or above surface temperature on both the top and bottom and until a cooked color change is achieved on all external surfaces; and

2. all food shall be served in accordance with this section unless otherwise ordered by the consumer for immediate service, such as but not limited to raw, marinated fish, raw molluscan shellfish, steak tartare, or partially or lightly cooked food, if the food establishment serves a population that is not a highly susceptible population.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1307. Hot Holding Temperatures

[formerly paragraph 22:09-4]

A. Food stored for hot holding and service shall be held at a temperature of 140EF (60EC) or higher with the exception of roast beef. If roast beef is cooked in accordance with §1305(A)(6) the minimum hot holding temperature shall be 130EF (54EC).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1309. Cold Holding Temperatures

[formerly paragraph 22:09-5]

A. Food stored for cold holding and service shall be held at a temperature of 41EF (5EC) or below.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1311. Cooling

[formerly paragraph 22:09-6]

A. Cooling of food shall be accomplished by using one or more of the following methods:

1. placing the food in shallow pans;
2. separating the food into smaller or thinner portions;
3. using rapid cooling equipment;
4. stirring the food in a container placed in an ice water bath;
5. using containers that facilitate heat transfer;
6. adding ice as an ingredient;
7. other approved effective methods.

B. Cooked potentially hazardous food shall be cooled:

1. to 70EF (21EC) within two hours of cooking or hot holding; and
2. to 41EF (5EC) from 70 EF (21EC) within four hours or less.

C. Potentially hazardous food, if prepared from ingredients at ambient temperature, shall be cooled to 41EF (5EC) within four hours following preparation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1313. Frozen Food

[formerly paragraph 22:09-7]

A. Stored frozen food should be stored at a temperature of 0EF (-17.8EC) or below and shall be maintained frozen.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1315. Thawing

[formerly paragraph 22:09-8]

A. Potentially hazardous food shall be thawed by one of the following methods:

1. under refrigeration that maintains the food temperature at 41EF (5EC) or below;
2. completely submerged under potable running water at a temperature of 70EF (21EC) or below with sufficient water velocity to agitate and float off loose particles in an overflow;
3. for a period of time that does not allow thawed portions to rise above 41EF (5EC);
4. as part of the conventional cooking process or thawed in a microwave oven and immediately transferred to conventional cooking equipment with no interruption in the cooking process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1317. Time as a Public Health Control

[formerly paragraph 22:09-9]

A. Time only, rather than time in conjunction with temperature, may be used as a public health control for a working supply of potentially hazardous food before cooking, or for ready-to-eat potentially hazardous food before cooking, or for ready-to-eat potentially hazardous food that is displayed or held for service for immediate consumption if:

1. the food is marked or otherwise identified with the time within which it shall be cooked, served or discarded;

2. the food is served or discarded within four hours from the point in time when the food is removed from temperature control;

3. food in unmarked containers or packages, or for which the time expires, is discarded; and

4. written procedures are maintained in the food establishment or retail food store/market and are available to the department upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1319. Parasite Destruction by Freezing

A. Except as specified in Subsection B of this section, before service or sale in ready-to-eat form, raw, raw-marinated, partially cooked, or marinated-partially cooked fish other than molluscan shellfish shall be frozen throughout to a temperature of:

1. -4EF (-20EC) or below for 168 hours (7 days) in a freezer; or

2. -31EF (-35EC) or below for 15 hours in a blast freezer.

B. If the fish are tuna of the species *Thunnus alalunga*, *Thunnus albacares* (Yellowfin tuna), *Thunnus atlanticus*, *Thunnus maccoyii* (Bluefin tuna, Southern), *Thunnus obesus* (Bigeye tuna), or *Thunnus thynnus* (Bluefin tuna, Northern), the fish may be served or sold in a raw, raw-marinated, or partially cooked ready-to-eat form without freezing as specified under Subsection A of this Section.

C. Except as specified in Subsection B of this Section, if raw, raw-marinated, partially cooked, or marinated-partially cooked fish are served or sold in ready-to-eat form, the person in charge shall record the freezing temperature and time to which the fish are subjected and shall retain the records at the food establishment or retail food store/market for 90 calendar days beyond the time of service or sale of the fish.

D. If the fish are frozen by a supplier, a written agreement or statement from the supplier stipulating that the fish supplied are frozen to a temperature and for a time specified under §1319 may substitute for the records specified under Subsection C of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1321. Temperature Measuring Devices (Thermometers) [formerly paragraph 22:09-10]

A. Temperature measuring devices shall be provided and used to measure:

1. food temperatures of potentially hazardous food on a device scaled in Fahrenheit (F) accurate to a plus or minus 2EF or Celsius (C) accurate to a plus or minus 1EC and should be able to measure the internal temperature of food products that are less than 1/2 inch thick,

2. ambient air temperature of all equipment used to hold potentially hazardous food on a device scaled in Fahrenheit accurate to a plus or minus 3EF or Celsius accurate to a plus or minus 1.5EC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 15. Food Storage

§1501. Protected

[formerly paragraph 22:10-1]

A. Food shall be protected from contamination by storing the food:

1. in a clean, dry location;

2. where it is not exposed to splash, dust, or other contamination;

3. at least six inches (15 cm) above the floor except:

i. metal pressurized beverage containers and cased food packages in cans, glass or other waterproof containers need not be elevated when the food container is not exposed to floor moisture.

ii. containerized food may be stored on dollies, racks or pallets, provided such equipment is readily movable.

4. so that it is arranged so that cross contamination of raw animal foods of one type with another, or ready to eat foods is prevented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1503. Storage

[formerly paragraph 22:10-2]

A. Food may not be stored:

1. in locker rooms;

2. in toilet rooms;

3. in dressing rooms;

4. in garbage rooms;

5. in mechanical rooms;

6. under sewer pipes;

7. under water pipes that are not adequately shielded to intercept potential drips;

8. under open stairwells;

9. in vehicles used to transfer or hold any type of waste; or

10. under other sources of contamination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1505. Packaged Food

[formerly paragraph 22:10-3]

A. Packaged food may not be stored in direct contact with ice or water if the food is subject to the entry of water through the packaging, wrapping, or container because of its positioning in the ice or water. Unpackaged food may only be stored in direct contact with drained ice; except

1. whole, raw fruits or vegetables; cut, raw vegetables such as celery or carrot sticks or cut potatoes; and tofu may be immersed in ice or water;

2. raw chicken and raw fish that are received immersed in ice in shipping containers may remain in that condition while in storage awaiting preparation, display, service or sale.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1507. Date Marking

A. Ready-to-eat, potentially hazardous foods prepared on premise and held under refrigeration for more than 24 hours shall be clearly marked at the time of preparation to indicate the date by which the food shall be consumed, which is, including the day of preparation, seven calendar days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 17. Food Preparation

§1701. General

[formerly paragraph 22:11-1]

A. During preparation, unpackaged food shall be protected from environmental sources of contamination. Raw fruits and vegetables shall be thoroughly washed in water to remove soil and other contaminants before being cut, combined with other ingredients, cooked, served or offered for human consumption in ready to eat form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1703. Hand Contact

[formerly paragraph 23:012]

A. Food shall be prepared with the least possible manual contact, with suitable utensils, and on surfaces that have been cleaned, rinsed, and sanitized prior to use to prevent cross-contamination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1705. Cross Contamination

[formerly paragraph 22:11-3]

A. Cross contamination shall be prevented by separating:

1. raw animal foods from ready to eat foods, including but not limited to, placing, storing, or displaying ready to eat food above raw animal food;
2. raw unprepared vegetables from ready to eat potentially hazardous foods; or
3. certain raw animal foods from each other because of different cooking temperatures except when combining as ingredients.

B. Cross contamination shall be prevented by properly washing, rinsing and sanitizing cutting boards, food preparation surfaces and other food contact surfaces following contact with raw animal foods or raw vegetables and before contact with ready to eat food.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1707. Reconstituted Dry Milk and Dry Milk Products

[formerly paragraph 23:015]

A. Reconstituted dry milk and dry milk products meeting the requirement of Chapter VII of this Title may only be used in instant desserts and whipped products, or for cooking and baking purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1709. Molluscan Shellfish

[formerly paragraph 22:11-2]

A. Raw shellfish shall be handled in accordance with Chapter IX of this Title except a HACCP plan is not required and raw shellfish may not be prepackaged by food establishments and retail food stores/markets.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 19. Food Display and Service

§1901. General [formerly paragraph 22:12-1]

A. Food on display shall be protected from contamination by the use of packaging, counter service line or food/sneeze guards, display cases, or other effective means except for nuts in the shell and whole, raw fruits and vegetables that are intended for hulling, peeling or washing by the consumer before consumption.

B. Proper utensils shall be used for preparation, service and dispensing of food. These utensils shall be stored in accordance with §2519 of this Part.

C. Self service consumers shall not be allowed to use soiled tableware, including single service articles, to obtain additional food from the display and serving equipment. Tableware, including single service articles, shall be made available at the serving display. A sign shall be posted at the serving display prohibiting the reuse of soiled tableware.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1903. Bulk Foods

[formerly paragraph 22:12-2]

A. Bulk foods shall be handled and dispensed in a manner described in §1901.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1905. Condiments

[formerly paragraph 22:12-3]

A. Condiments shall be protected from contamination by being kept in dispensers that are designed to provide protection, protected food displays provided with the proper utensils, original containers designed for dispensing, or individual packages or portions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1907. Ice

[formerly paragraph 22:12-4]

A. Ice for consumer use shall be dispensed only by employees with scoops, tongs, or other ice-self-dispensing utensils or through automatic service ice-dispensing equipment. Ice-dispensing utensils shall be stored in accordance with §2519.

B. Ice used as a medium for cooling food such as melons or fish, packaged foods such as canned beverages, or cooling coils and tubes of equipment, shall not be used as food.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1909. Reservice

[formerly paragraph 22:12-5]

A. Once served to a consumer, portions of left-over food shall not be reserved, except:

- 1. food that is not potentially hazardous, such as crackers and condiments, in an unopened original package and maintained in sound condition may be reserved or resold;
- 2. food that is dispensed so that it is protected from contamination and the container is closed between uses, such as a narrow-neck bottle containing catsup, steak sauce, or wine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§1911. Special Requirements for Highly Susceptible Populations

A. In a food establishment that serves a highly susceptible population:

- 1. prepackaged juice or a prepackaged beverage containing juice must be pasteurized;
- 2. pasteurized shell eggs or pasteurized liquid, frozen, or dry eggs shall be substituted for raw shell eggs in the preparation of:

- a. foods such as Caesar salad, hollandaise or Bearnaise sauce, mayonnaise, egg nog, ice cream, and egg-fortified beverages, and

- b. recipes in which more than one egg is broken and the eggs are combined except:

- i. when combined immediately before cooking for one consumer's serving at a single meal, cooked to 145EF for 15 seconds and served immediately, such as an omelet, souffle, or scrambled eggs;

- ii. when combined as an ingredient immediately before baking and the eggs are thoroughly cooked to a ready-to-eat form, such as a cake, muffin, or bread.

3. Food in an unopened original package may not be re-served.

4. The following foods may not be served or offered for sale in a ready to eat form:

- a. raw animal foods such as raw fish, raw-marinated fish, raw molluscan shellfish, and steak tartare;

- b. a partially cooked animal food such as lightly cooked fish, rare meat, soft cooked eggs that are made from raw shell eggs, and meringue; and

- c. raw seed sprouts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 21. Equipment and Utensils

§2101. General

[formerly paragraph 22:13]

A. All equipment and utensils shall be of construction approved by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2103. Multi-Use

[formerly paragraph 22:13-1]

A. Materials that are used in the construction of utensils and food contact surfaces of equipment may not allow the migration of deleterious substances or impart colors, odors, or tastes to food and under normal use conditions shall be:

- 1. safe;
- 2. durable, corrosion-resistant, and non absorbent;
- 3. sufficient in weight and thickness to withstand repeated warewashing;
- 4. finished to have a smooth, easily cleanable surface; and
- 5. resistant to pitting, chipping, grazing, scratching, scoring, distortion, and decomposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2105. Copper

[formerly paragraph 22:13-2]

A. Copper and copper alloys such as brass may not be used in contact with a food that has a pH below 6 such as vinegar, fruit juice, or wine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2107. Galvanized Metal

[formerly paragraph 22:13-3]

A. Galvanized metal may not be used for utensils or food-contact surfaces or equipment that are used for acidic food.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2109. Lead

[formerly paragraph 22:13-4]:

A. Lead in Ceramic, China, and Crystal Utensils CUse Limitation

1. Ceramic, china, crystal utensils, and decorative utensils such as hand painted ceramic or china that are used in contact with food shall be lead-free or contain levels of lead not exceeding the limits of the following utensil categories:

Utensil Category	Description	Maximum Lead mg/L
Hot Beverage Mugs	Coffee Mugs	0.5
Large Hollowware	Bowls \$ 1.1L (1.16 qt)	1
Small Hollowware	Bowls < 1.1L (1.16 qt)	2.0
Flat Utensils	Plates, Saucers	3.0

B. Lead in Pewter Alloys CUse Limitation

1. Pewter alloys containing lead in excess of 0.05 percent may not be used as a "food-contact surface."

C. Lead in Solder and Flux CUse Limitation.

1. Solder and flux containing lead in excess of 0.2 percent may not be used as a food-contact surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2111. Wood

[formerly paragraph 22:13-5]

A. Wood and wood wicker may not be used as a food-contact surface except as follows.

1. Hard maple or an equivalently hard, close-grained wood may be used for:

a. cutting boards, cutting blocks, baker's tables; and utensils, such as rolling pins, doughnut dowels, salad bowls, and chopsticks; and

b. wooden paddles used in confectionery operations for pressure scraping kettles when manually preparing confections at a temperature of 230EF (110EC) or above.

2. Whole, uncut, raw fruits and vegetables, and nuts in the shell may be kept in the wood shipping containers in which they were received, until the fruits, vegetables, or nuts are used.

3. If the nature of the food requires removal of rinds, peels, husks, or shells before consumption, the whole, uncut, raw food may be kept in untreated wood containers or approved treated wood containers complying with the Code of Federal Regulations (CFR).

4. "Cedar-Plank" or "Shingles" may be used as a single-service article if:

a. the food establishment has certified that the "cedar-plank" has not been chemically treated and is in its natural state;

b. the side of the "plank" which will come in contact with the fish must be planed and sanded to a smooth finish.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2113. Non-Food Contact Surfaces

[formerly paragraph 22:14]

A. Surfaces of equipment that are exposed to splash, spillage, or other food soiling or that require frequent cleaning shall be constructed of a corrosion-resistant, non absorbent, and smooth material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2115. Single-Service and Single-Use Articles

[formerly paragraph 22:15]

A. Single-service and single-use articles may not be reused.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2117. Gloves, Use Limitations

[formerly paragraph 22:16]

A. If used, single use gloves shall be used for only one task such as working with ready-to-eat food or with raw animal food, used for no other purpose, and discarded when damaged or soiled, or when interruptions occur in the operation.

B. Except as specified in Subsection C of this Section, slash-resistant gloves that are used to protect the hands

during operations requiring cutting shall be used in direct contact only with food that is subsequently cooked as specified under §1305 of this part such as frozen food or a primal cut of meat.

C. Slash-resistant gloves may be used with ready-to-eat food that will not be subsequently cooked if the slash-resistant gloves have a smooth, durable, and nonabsorbent outer surface; or if the slash-resistant gloves are covered with a smooth, durable, nonabsorbent glove or a single-use glove.

D. Cloth gloves may not be used in direct contact with food unless the food is subsequently cooked as required under §1305 of this Part such as frozen food or a primal cut of meat.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2119. Food Temperature Measuring Devices

[formerly paragraph 22:17]

A. Food temperature measuring devices may not have sensors or stems constructed of glass, except that thermometers with glass sensors or stems that are encased in a shatterproof coating such as candy thermometers may be used.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 23. Requirements for Equipment

§2301. General

[formerly paragraph 22:18-1]

A. Equipment used for cooling, heating and holding cold and hot foods, shall be sufficient in number and capacity to provide food temperatures as specified in this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2303. Manual Warewashing, Sink Compartment

Requirements [formerly paragraph 22:18-2]

A. A sink with at least three compartments shall be provided for manual washing, rinsing and sanitizing equipment and utensils, except:

1. where an approved alternative process is used as specified in Subsection C of this section; or

2. where there are no utensils or equipment to wash, rinse and sanitize as in a facility with only prepackaged foods.

B. Sink compartments shall be large enough to accommodate immersion of the largest equipment and utensils.

C. When equipment or utensils are too large for the warewashing sink or warewashing machine, the following alternative process may include:

1. high-pressure detergent sprayers;

2. low or line-pressure spray detergent foamers;

3. other task specific cleansing equipment, such as CIP;

4. brushes or other implements.

D. Drainboards, utensil racks, or tables large enough to accommodate all soiled and cleaned items that may accumulate during hours of operation shall be provided for

necessary utensil holding before cleaning and after sanitizing. Drainboards for sinks and machines shall be self-draining.

E. A warewashing sink may not be used for handwashing or dumping mop water. Sinks may be used to wash wiping cloths, wash produce and other foods or thaw foods if the sinks are properly washed and sanitized before this use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2305. Warewashing Machines

[formerly paragraph 22:18-3]

A. When provided, a warewashing machine shall have an easily accessible and readable data plate affixed to the machine by the manufacturer that indicates the machine's design and operating specifications including the:

1. temperatures required for washing, rinsing and sanitizing;
2. pressure required for the fresh water sanitizing rinse unless the machine is designed to use only a pumped sanitizing rinse; and
3. conveyor speed for conveyor machines or cycle time for stationary rack machines.

B. Warewashing machine wash and rinse tanks shall be equipped with baffles, curtains, or other means to minimize internal cross contamination of the solutions in wash and rinse tanks.

C. Warewashing machines shall be equipped with a temperature measuring device that indicates the temperature of the water:

1. in each wash and rinse tank; and
2. as the water enters the hot water sanitizing final rinse manifold or in the chemical sanitizing solution tank.

D. Warewashing machines that provide a fresh hot water sanitizing rinse shall be equipped with a pressure gauge or similar device such as a transducer that measures and displays the water pressure in the supply line immediately before entering the warewashing machine.

E. Warewashing machines shall be operated in accordance with the machine's data plate and other manufacturer's specifications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 25. Cleaning of Equipment and Utensils

§2501. General

[formerly paragraph 22:19-1]

A. Equipment food-contact surfaces and utensils shall be clean to sight and touch.

B. The food-contact surfaces of cooking equipment and pans shall be kept free of encrusted grease deposits and other accumulations.

C. Nonfood-contact surfaces of equipment shall be kept free of an accumulation of dust, dirt, food residue, and other debris.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2503. Frequency of Cleaning

[formerly paragraph 22:19-2]

A. Equipment food contact surfaces and utensils shall be cleaned:

1. before each use with a different type of raw animal food such as beef, seafood, lamb, pork, or poultry;
2. each time there is a change from working with raw foods to working with ready to eat foods;
3. between uses with raw fruits or vegetables and with potentially hazardous food;
4. before using or storing a temperature measuring device;
5. at any time during the operation when contamination may have occurred.

B. Equipment food-contact surfaces and utensils used with potentially hazardous food shall be cleaned throughout the day at least every four hours.

C. Nonfood-contact surfaces of equipment shall be cleaned at a frequency necessary to preclude accumulation of soil residues.

E. Warewashing equipment, including machines and the compartments of sinks, basins or other receptacles used for washing and rinsing equipment, utensils, or raw foods, or laundering wiping cloths; and drainboards or other equipment used to substitute for drainboards, shall be cleaned:

1. before use;
2. throughout the day at a frequency necessary to prevent recontamination of equipment and utensils and to ensure that the equipment performs its intended function; and
3. if used, at least every 24 hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2505. Cleaning Agents

[formerly paragraph 22:19-3]

A. The wash compartment of a sink, mechanical warewasher, or other alternative process as specified in §2303.C of this Part, when used for warewashing, shall contain a wash solution of soap, detergent, acid cleaner, alkaline cleanser, degreaser, abrasive cleaner, or other cleaning agent according to the cleaning agent manufacturer's label instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2507. Temperature of Wash Solution

[formerly paragraph 22:19-4]

A. The temperature of the wash solution in manual warewashing equipment shall be maintained at not less than 110EF (43EC) unless a different temperature is specified on the cleaning agent manufacturer's label instruction.

B. The temperature of the wash solution in spray type warewashers that use hot water to sanitize may not be less than:

1. for a single tank, stationary rack, single temperature machine, 165EF (74EC);
2. for a single tank, conveyor, dual temperature machine, 160EF (71EC);

3. for a single tank, stationary rack, dual temperature machine, 150EF (66EC);

4. for a multitank, conveyor, multitemperature machine, 150EF (66EC).

C. The temperature of the wash solution in spray type warewashers that use chemicals to sanitize may not be less than 120EF (49EC).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2509. Methods of Cleaning

[formerly paragraph 22:19-5]

A. Precleaning

1. Food debris on equipment and utensils shall be scrapped over a waste disposal unit, scupper, or garbage receptacle or shall be removed in a warewashing machine with a prewash cycle.

2. If necessary for effective cleaning, utensils and equipment shall be pre-flushed, pre-soaked, or scrubbed with abrasives.

B. Loading. Soiled items to be cleaned in a warewashing machine shall be loaded into racks, trays, or baskets or onto conveyors in a position that:

1. exposes the items to the unobstructed spray from all cycles and;

2. allows the items to drain.

C. Wet Cleaning

1. Equipment food-contact surfaces and utensils shall be effectively washed to remove or completely loosen soils by using the manual or mechanical means necessary such as the application of detergents containing wetting agents and emulsifiers; acid, alkaline, or abrasive cleaners; hot water; brushes; scouring pads; high-pressure sprays; or ultrasonic devices.

2. The washing procedures selected shall be based on the type and purpose of equipment or utensil, and on the type of soil to be removed.

3. Equipment shall be disassembled as necessary to allow access of the detergent solution to all parts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2511. Rinsing Procedures

[formerly paragraph 22:19-6]

A. Washed utensils and equipment shall be rinsed so that abrasives are removed and cleaning chemicals are removed or diluted through the use of water or other solutions. A distinct, separate water rinse after washing and before sanitizing shall be used with:

1. a three compartment sink;

2. an alternative manual warewashing equipment equivalent to a three compartment sink as specified in §2303.C of this Part;

3. a three-step washing, rinsing and sanitizing procedure in a warewashing system for CIP equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2513. Sanitization

[formerly paragraph 22:19-7]

A. After the food-contact surfaces of all equipment and utensils are washed and rinsed, they shall be sanitized before use. Clean food-contact surfaces of all equipment and utensils shall be sanitized in:

1. hot water:

a. if immersion in hot water is used in manual operation, the temperature of the water shall be maintained at 171EF (77EC) or above;

b. in a mechanical operation, the temperature of the hot water rinse as it enters the manifold may not be more than 194EF (90EC) or less than:

i. for a single tank, stationary rack, single temperature machine, 165EF (74EC); or

ii. for all other machines, 180EF (82EC). This should achieve a utensil surface temperature of 160EF (71EC) as measured by an irreversible registering temperature indicator;

c. in a mechanical operation using a hot water rinse, the flow pressure may not be less than 15 pounds per square inch or more than 25 pounds per square inch as measured in the water line immediately upstream from the fresh hot water sanitizing rinse control valve;

2. chemicals:

a. only a chemical sanitizer listed in 21 CFR 178.1010, Sanitizing Solutions, shall be used in a sanitizing solution for manual or mechanical operation at the specified exposure times. These sanitizing solutions shall be used in accordance with the EPA approved manufacturers label use instructions, and shall be used as follows.

i. A chlorine solution shall have a minimum temperature based on the concentration and pH of the solution as listed in the following chart:

Minimum Concentration	Minimum Temperature	Minimum Temperature
MG/L or ppm	pH 10 or less	pH 8 or less
25 ppm	120EF (49EC)	120EF (49EC)
50 ppm	100EF (38EC)	75EF (24EC)
100 p.p.m	55EF (13EC)	55EF (13EC)

ii. An iodine solution shall have a:

(a). minimum temperature of 75EF (24EC);

(b). pH of 5.0 or less, unless the manufacturer's use directions included in the labeling specify a higher pH limit of effectiveness; and

(c). concentration between 12.5 mg/L and 25 mg/L(ppm).

iii. A quarternary ammonium compound solution shall:

(a). have a minimum temperature of 75EF (24EC);

(b). have a concentration of 200 mg/L (ppm) or as indicated by the manufacturer's use directions included in labeling; and

(c). be used only in water with 500 mg/L (ppm) hardness or less.

iv. Other solutions of the chemicals specified in (i), (ii), and (iii), of this Subparagraph may be used if demonstrated to the department to achieve sanitization and approved by the department; or

v. other chemical sanitizers may be used if they are applied in accordance with the manufacturer's use directions included in the labeling.

b. Chemical, manual or mechanical operations, including the applications of sanitizing chemicals by immersion, manual swabbing, brushing, or pressure spraying methods, using a solution as specified in §2513.A.2.a of this section shall be used to provide the following:

- i. an exposure time of at least 10 seconds for a chlorine solution;
- ii. an exposure time of at least 30 seconds for other chemical sanitizer solutions, or
- iii. an exposure time used in relationship with a combination of temperature, concentration, and pH that, when evaluated for efficacy, yields sanitization as defined in this part.

c. A test kit or other device that accurately measures the concentration in mg/L or parts per million (ppm) of sanitizing solution shall be provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2515. Air Drying

[formerly paragraph 22:19-8]

A. Except as specified in Subsection C of this section, after cleaning and sanitizing, equipment and utensils may not be cloth-dried.

B. Equipment and utensils shall be air-dried or used after adequate draining as specified in paragraph (a) of 21 CFR 178.1010 Sanitizing Solutions, before contact with food.

C. Utensils that have been air-dried may be polished with cloths that are maintained clean and dry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2517. Storage of Clean Equipment and Utensils

[formerly paragraph 22:19-9]

A. Except as specified in Subsection D of this Section, cleaned equipment, utensils and single-service and single use articles shall be stored:

1. in a clean dry location;
2. where they are not exposed to splash, dust, or contamination; and
3. at least 6 inches (15 cm) above the floor.

B. Clean equipment and utensils shall be stored as specified under Subsection A of this Section and shall be stored:

1. in a self-draining position that permits air drying; and
2. covered or inverted.

C. Single-service and single-use articles shall be stored as specified under Subsection A of this Section and shall be kept in the original protective package or stored by using other means that afford protection from contamination until used.

D. Items that are kept in closed packages may be stored less than 6 inches (15 cm) above the floor on dollies, pallets, racks, or skids provided that the storage equipment is designed so that it may be moved by hand or by conveniently available equipment such as hand trucks and forklifts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2519. In Use and Between Use Utensil Storage **[formerly paragraph 22:19-10]**

A. During pauses in food preparation or dispensing, food preparation dispensing utensils shall be stored:

1. in the food;
 - a. with their handles above the top of the food and the container;
 - b. with their handles above the top of the food within containers or equipment that can be closed, if such food is not potentially hazardous, such as bins of sugar, flour, or cinnamon;
2. on a clean portion of the food preparation table or cooking equipment only if the in-use utensil and the food-contact surface of the food preparation table or cooking equipment are cleaned and sanitized at a frequency specified under §2503 of this Part;
3. in running water of sufficient velocity to flush particulate matter to the drain, if used with moist food such as ice cream or mashed potatoes; or
4. in a clean, protected location if the utensils, such as ice scoops, are used only with a food that is not potentially hazardous;
5. in a container of water if the water is maintained at a temperature of at least 140°F (60°C) and the container is cleaned at least once every 24 hours or at a frequency necessary to preclude accumulation of soil residues.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 27. Water Supply

§2701. General

[formerly paragraph 22:20-1]

A. Sufficient quantities of potable water for the needs of the food establishment or retail food store/market shall be provided in accordance with Chapter XII of this Title.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2703. Pressure

[formerly paragraph 22:20-2]

A. Water under pressure shall be provided to all fixtures, equipment, and nonfood equipment that are required to use water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

§2705. Hot Water

[formerly paragraph 22:20-3]

A. Hot water shall be provided to all fixtures, equipment and nonfood equipment as required and the generation and distribution system shall be sufficient to meet the peak hot water demands throughout the food establishment or retail food store/market.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2707. Steam

[formerly paragraph 22:20-4]

A. Steam used in contact with food or food contact surfaces shall be free of deleterious materials or additives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§2709. Bottled Water

[formerly paragraph 22:20-5]

A. Bottled and packaged potable water shall be obtained from a source that complies with Chapter VI of this Title and the Food, Drug and Cosmetic Law and Regulations. Bottled and packaged potable water, if used, shall be handled and stored in a way that protects it from contamination and shall be dispensed from the original container.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 29. Sewage

§2901. General

[formerly paragraph 22:21-1]

A. All sewage from retail food establishments or retail food stores/markets shall be disposed of through an approved sewerage system/facility in accordance with Chapter XIII of this Title.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 31. Plumbing

§3101. General

[formerly paragraph 22:22-1]

A. Plumbing shall be sized, installed, and maintained in accordance with Chapter XIV of this Title.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3103. Cross-Connection

[formerly paragraph 22:22-2]

A. There shall be no cross-connection between the potable water supply and any other source of water of lesser quality including any source of pollution from which the potable water supply might become contaminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3105. Backflow

[formerly paragraph 22:22-3]

A. Backflow shall be prevented by:

1. installing an air gap in the water distribution system between the water supply inlet and the flood level rim of the plumbing fixture, equipment, or nonfood equipment which is at least twice the diameter of the water supply inlet (or generally, three times the diameter if affected by a nearby wall); or

2. installing an approved backflow or backsiphonage prevention device installed and maintained on a water line in accordance with Chapter XIV of this Title;

3. not having a direct connection between the drainage system and any drain line originating from equipment in

which food, portable equipment, or utensils are placed (e.g., any sink where food is cleaned, peeled, cut up, rinsed, battered, defrosted, or otherwise prepared or handled; potato peelers; ice cream dipper wells, refrigerators; freezers; walk-in coolers and freezers; ice boxes; ice making machines; fountain type drink dispensers; rinse sinks; cooling or refrigerating coils; laundry washers; extractors; steam tables; steam kettles; egg boilers; coffee urns; or similar equipment).

Exception: A commercial dishwashing (warewashing) machine may have a direct connection between its waste outlet and a floor drain when the machine is located within 5 feet (1.5 m) of a trapped floor drain and the machine outlet is connected to the inlet side of a properly vented floor drain trap.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3107. Non-Potable Water System

[formerly paragraph 22:22-4]

A. A non-potable water system is permitted only for purposes such as air conditioning and fire protection, provided the system is installed in accordance with Chapter XII and Chapter XIV of this Title and:

1. the non potable water does not contact directly or indirectly, food, potable water equipment that contacts food, or utensils; and

2. the piping of any nonpotable water system shall be easily identified so that it is readily distinguishable from piping that carries potable water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3109. Lavatory Facilities

[formerly paragraph 22:22-5]

A. All lavatory fixtures shall be installed in accordance with Chapter XIV of this Title and:

1. at least one handwashing lavatory shall;

a. be located to permit convenient use by all employees in food preparation areas and utensil washing areas including the produce, meat and seafood markets;

b. also be located in or immediately adjacent to toilet rooms;

2. lavatories shall be accessible to employees at all times;

3. lavatories shall be equipped to provide a flow of water at a temperature of at least 85EF (30EC) through a mixing valve or combination faucet;

4. if a self-closing, slow-closing, or metering faucet is used, it shall provide a flow of water for at least 15 seconds without the need to reactivate the faucet;

5. steam mixing valves are prohibited;

6. a supply of hand-cleansing soap or detergents shall be available at each lavatory. A supply of individual disposable towels, a continuous towel system that supplies the user with a clean towel or a heat-air drying device shall be available at each lavatory. The use of common towels is prohibited;

7. lavatories, soap dispensers, hand-drying devices and all related fixtures shall be kept clean and in good repair;

8. a handwashing lavatory may not be used for purposes other than handwashing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3111. Toilet Facilities

[formerly paragraph 22:22-6]

A. All toilet fixtures and facilities shall be installed in accordance with Chapter XIV of this Title and:

1. toilet fixtures and facilities shall be the number required, shall be conveniently located, and accessible to employees at all times;
2. a toilet room located on the premises shall be completely enclosed and provided with a solid tight-fitting and self-closing door except that this requirement does not apply to a toilet room that is located outside a food establishment or retail food store/market and does not open directly into the food establishment or retail food store/market, such as but not limited to shopping malls, airports, or other places of public assembly;
3. toilet rooms shall be mechanically vented to the outside atmosphere;
4. toilet fixtures and facilities shall be kept clean and in good repair. A supply of toilet tissue shall be provided at each toilet at all times. Easily cleanable receptacles shall be provided for waste materials with at least one covered waste receptacle in toilet rooms used by women.

B. Toilet rooms shall be provided with a properly installed floor drain. The floor shall slope towards the floor drain.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3113. Grease Traps

[formerly paragraph 22:22-7]

A. An approved type grease trap shall be installed in accordance with Chapter XIV of this Title and:

1. it shall be installed in the waste line leading from the sinks, drains and other fixtures or equipment where grease may be introduced in the drainage or sewage system in quantities that may affect line stoppage or hinder sewage treatment;
2. a grease trap, if used, shall be located to be easily accessible for cleaning and shall be serviced as often as necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3115. Garbage Grinders

[formerly paragraph 22:22-8]

A. If used, garbage grinders shall be installed and maintained in accordance with Chapter XIV of this Title.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3117. Utility or Service Sink

[formerly paragraph 22:22-9]

A. At least one service sink or one curbed cleaning facility equipped with a floor drain shall be provided and conveniently located for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water and

similar liquid waste. The sink shall be located in an area to avoid food contamination.

B. The use of lavatories, utensil washing, equipment washing, or food preparation sinks as a utility or service sink is prohibited.

C. In some special applications, because of space restrictions or unique situations, when the risk of contamination is low in the opinion of the state health officer, a large utility/service sink may be used as a handwashing sink.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 33. Garbage, Rubbish and Refuse

§3301. General

[formerly paragraph 22:23-1]

A. All garbage, rubbish and refuse shall be handled in accordance with Chapter XXVII of this Title.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3303. Receptacles for Garbage, Rubbish and Refuse

[formerly paragraph 22:223-2]

A. Equipment and receptacles for refuse, recyclables, returnables, and for use with materials containing food residue shall be durable, cleanable, insect and rodent resistant, leakproof, and nonabsorbent.

B. Plastic bags and wet strength paper bags may be used to line receptacles for storage of garbage, etc., inside the retail food establishment or retail food store/market, or within closed outside receptacles.

C. Outside receptacles for garbage, etc., shall have tight-fitting lids, doors, or covers and shall be kept closed.

D. There shall be a sufficient number of receptacles to hold all the garbage and refuse that accumulates. They shall be emptied when full. All garbage, rubbish and refuse shall be disposed of in an approved manner pursuant to applicable state laws and regulations.

E. Soiled receptacles shall be cleaned at a frequency to prevent a nuisance or the attraction of insects and rodents.

F. Liquid waste from compacting shall be disposed of as sewage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3305. Incineration

[formerly paragraph 22:23-3]

A. Where garbage, rubbish or refuse is burned on the premises, it shall be done by incineration in accordance with the rules and regulations of the Louisiana Department of Environmental Quality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3307. Cleaning and Storage

[formerly paragraph 22:23-4]

A. Indoor garbage or refuse storage rooms, if used, shall be constructed of easily cleanable, nonabsorbent washable materials, shall be kept clean, shall be insect and rodent

proof and shall be large enough to store the garbage and refuse that accumulates.

B. Outdoor garbage or refuse storage area surfaces shall be constructed of non-absorbent material such as concrete or asphalt and shall be smooth, durable, and sloped for drainage.

C. Suitable cleaning equipment and supplies such as high pressure pumps, hot water, steam, and detergent shall be provided as necessary for effective cleaning of equipment and receptacles.

D. Liquid waste from the cleaning operation shall be disposed of as sewage. Methods used for this disposal shall prevent rainwater and runoff from entering the sanitary sewerage system. Dumpster pads may be elevated or curbed, enclosed or covered, and the sanitary sewerage drain protected with a proper cover.

E. If approved by the state health officer, off-premises-based cleaning services may be used if on-premises cleaning implements and supplies are not provided.

F. Outdoor premises used for storage of garbage, rubbish, refuse, recyclables and returnables shall be maintained clean and free of litter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 35. Insects and Rodent Control

§3501. General

[formerly paragraph 22:24-1]

A. Insects and rodents shall be controlled in accordance with Chapter V of this Title.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3503. Insect Control Devices

[formerly paragraph 22:24-2]

A. Insect control devices that are used to electrocute or stun flying insects shall be designed to retain the insect within the device.

B. Insect control devices shall be installed so that:

1. the devices are not located over a food preparation area, and

2. dead insects and insect fragments are prevented from being impelled onto or falling on exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3505. Openings

[formerly paragraph 22:24-3]

A. Openings to a portion of the building that is not part of the food establishment or to the outdoors shall be protected against the entry of insects and rodents by:

1. filling or closing holes and other gaps along floors, walls and ceilings;

2. closed, tight-fitting windows;

3. solid, self-closing, tight-fitting doors; or

4. if windows or doors are kept open for ventilation or other purposes, the openings shall be protected against the entry of insects by:

a. 16 mesh to the inch (25.4 mm) screens;

b. properly designed and installed air curtains; or

c. other effective means approved by the department.

B. Establishment location, weather or other limiting conditions may be considered as part of an overall flying insect and other pest control program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3507. Premises

[formerly paragraph 22:24-2]

A. The premises shall be free of:

1. items that are unnecessary to the operation or maintenance of the food establishment such as equipment that is nonfunctional or no longer used; and

2. litter.

B. The premises shall be kept free of pests by:

1. routinely inspecting the premises for evidence of pests; and

2. using methods of control approved by law.

C. Outdoor walking and driving areas shall be surfaced with concrete, asphalt, gravel or other materials that have been effectively treated to minimize dust, facilitate maintenance, drain properly and prevent muddy conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 37. Physical Facilities

§3701. Floors

[formerly paragraph 22:25]

A. Floors shall be constructed of smooth, durable, nonabsorbant and easily cleanable material.

B. Closely woven and easily cleanable carpet may be used in certain areas of the food establishment or retail food store/market except where food is prepared and processed.

C. Properly installed floor drains shall be provided in toilet rooms, seafood and meat markets and in all areas where water flush cleaning methods are used. The floor shall be sloped to the floor drain.

D. Floors shall be maintained clean and in good repair.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:

§3703. Walls and Ceilings

[formerly paragraph 22:26]

A. Walls and ceilings in the food preparation areas and equipment-utensil washing areas shall be constructed of light colored, smooth, durable and easily cleanable materials.

B. Utility service lines, pipes, exposed studs, joists, rafters and decorative items shall not be unnecessarily exposed in food preparation and processing areas. When exposed in other areas of the food establishment or retail food store/market, they shall be installed so they do not obstruct or prevent cleaning of the walls and ceilings.

C. Walls, ceilings, and any attachments shall be maintained clean and in good repair.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3705. Lighting Intensity

[formerly paragraph 22:27-1]

A. The lighting intensity:

1. in walk-in refrigeration units and dry food storage areas, and in other areas or rooms during periods of cleaning, shall be at least 110 lux (10 foot candles) at a distance of 30 inches (75 cm) above the floor.

2. in areas where there is consumer self service, areas used for handwashing, warewashing, equipment and utensil storage, and in toilet rooms, shall be at least 220 lux (20 foot candles) at a distance of 30 inches (75 cm) above the floor.

3. at a surface where a food employee is working with unpackaged potentially hazardous food or with food, utensils, and equipment such as knives, slicers, grinders, or saws where employees' safety is a factor, shall be at least 540 lux (50 foot candles) at a distance of 30 inches (75 cm) above the floor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3707. Light Shielding

[formerly paragraph 22:27-2]

A. Light bulbs shall be shielded, coated, or otherwise shatter-resistant in areas where there is exposed food, clean equipment, utensils and linens or unwrapped single-service and single-use articles.

B. Infrared or other heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb so that only the face of the bulb is exposed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3709. Mechanical Ventilation

[formerly paragraph 22:28-1]

A. If necessary to keep rooms free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes, mechanical ventilation of sufficient capacity shall be provided exhausting to the outside atmosphere.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3711. Hood Ventilation [formerly paragraph 22:28-2]

A. Ventilation hood systems and devices shall be sufficient in number and capacity to prevent grease or condensation from collecting on walls and ceilings and should be equipped with filters to prevent grease from escaping into the outside atmosphere.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3713. Heating, Air Conditioning, Ventilating System Vents [formerly paragraph 22:28-3]

A. These systems shall be designed and installed so that make-up air intake and exhaust vents do not cause contamination of food, food preparation surfaces, equipment and utensils.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 39. Poisonous or Toxic Materials

§3901. Labeling

[formerly paragraph 22:29-1]

A. Containers of poisonous or toxic materials and personal care items shall bear a legible manufacturer's label.

B. Working containers used for storing poisonous or toxic materials such as cleaners and sanitizers taken from bulk supplies shall be clearly and individually identified with the common name of the material. This practice is not allowed in a day-care or residential facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3903. Storage and Display

[formerly paragraph 22:29-2]

A. Poisonous or toxic materials shall be stored for use in food establishments or displayed for retail sale or use in retail food stores/markets so they may not contaminate food, equipment, utensils, linens, single-service and single-use articles by:

1. separating the poisonous or toxic materials by spacing or partitioning; and

2. locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, single-service and single-use articles; and

3. storing those properly labeled medicines and first aid supplies necessary for the health of employees or for retail sale in a location or area that prevents contamination of food, equipment, utensils, linens, single-service and single-use articles; and

4. storing medicines belonging to employees that require refrigeration (and are stored in a food refrigerator) in a package or container kept inside a covered, leakproof container that is identified as a container for the storage of medicines, or as specified for day care centers and residential facilities in Chapter XXI of this Title; and

5. storing employees' personal care items in lockers or other suitable facilities that are located in an area that prevents contamination of food, equipment, utensils, linens, single-service and single-use articles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§3905. Use

[formerly paragraph 22:29-3]

A. Only those poisonous or toxic materials that are required for the operation and maintenance of the food establishment or retail food store/market such as for the cleaning and sanitizing of equipment and utensils and the control of insects and rodents, shall be allowed in food preparation and processing areas. This does not apply to approved, packaged poisonous or toxic materials that are for retail sale stored in accordance with §3903.

B. Poisonous or toxic materials shall be stored in accordance with §3903 and used according to:

1. law;

2. manufacturer's use directions included in labeling, and, for a pesticide, manufacturer's label instructions including a statement that the use is allowed in a food preparation or processing area; and

3. any additional conditions that may be established by the regulatory authority.

C. Chemical sanitizers and other chemical antimicrobials applied to food contact surfaces shall meet the requirements specified in §2513.A.2 and §2515.B.

D. Chemicals used to wash or peel raw, whole fruits and vegetables shall be used in accordance with the manufacturer's label instructions and as specified in 21 CFR 173.315.

E. Restricted use pesticides shall be applied and used according to law and in accord with the manufacturer's label instructions.

F. Rodent bait shall be contained in a covered, tamper-resistant bait station.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 41. Miscellaneous

§4101. Prohibitive Acts

[formerly paragraph 22:30]

A. Except as specified in Subsection B of this Section, live animals may not be allowed on the premises of food establishments or retail food stores/markets.

B. Live animals may be allowed in the following situations if the contamination of food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles cannot result; such as

1. edible fish or decorative fish in aquariums, shellfish and crustacea in display tank systems;

2. patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas, and sentry dogs running loose in outside fenced areas;

3. service animals that are controlled by a disabled employee or person, if a health or safety hazard will not result from the presence or activities of the service animal, in areas that are not used for food preparation and that are usually open for customers, such as dining and sales areas;

4. pets in the common dining areas of group residences at times other than during meals if:

a. effective partitioning and self-closing doors separate the common dining areas from storage or food preparation areas;

b. condiments, equipment, and utensils are stored in enclosed cabinets or removed from the common dining areas when pets are present; and

c. dining areas including tables, countertops, and similar surfaces are effectively cleaned before the next meal service.

C. Body Art. No employee or any other person shall engage in the practice of "Body art" within the premises of any food establishment or retail food store/market as defined in this Part.

D. Persons unnecessary to the food establishment or retail food store/market operation are not allowed in the food preparation, food storage, or warewashing areas, except that brief visits and tours may be authorized by the person in charge if steps are taken to ensure that exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles are protected from contamination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4103. Distressed Merchandise

[formerly paragraph 22:32]

A. Products that are held by the food establishment or retail food store/market for credit, redemption, or return to the distributor, such as damaged, spoiled, or recalled products, shall be segregated and held in designated areas that are separated from food, equipment, utensils, linens, and single-service and single-use articles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4105. Dressing Areas, Lockers and Employee Break Areas [formerly paragraph 22:33]

A. Dressing rooms or dressing areas shall be designated if employees routinely change their clothes in the establishment.

B. Lockers or other suitable facilities shall be provided and used for the orderly storage of employees' clothing and other possessions.

C. Areas designated for employees to eat, drink, and use tobacco shall be located so that food, equipment, linens, and single-service and single-use articles are protected from contamination. Areas where employees use tobacco should be well ventilated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4107. Linen/Laundry, General

[formerly paragraph 22:35-1]

A. Clean linens shall be free from food residues and other soiled matter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4109. Linen/Laundry, Frequency of Cleaning

[formerly paragraph 22:35-2]

A. Linens that do not come in direct contact with food shall be laundered between operations if they become wet, sticky, or visibly soiled.

B. Cloth gloves shall be laundered before being used with a different type of raw animal food such as beef, lamb, pork, and fish.

C. Wet wiping cloths shall be laundered before being used with a fresh solution of cleanser or sanitizer.

D. Dry wiping cloths shall be laundered as necessary to prevent contamination of food and clean serving utensils.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4111. Wiping Cloths

[formerly paragraph 22:35-3]

A. Cloths that are used for wiping food spills shall be used for no other purpose.

B. Moist cloths used for wiping food spills on food contact surfaces of equipment shall be stored in an approved chemical sanitizing solution between uses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4113. Storage of Soiled Linens

[formerly paragraph 22:35-4]

A. Soiled linens shall be kept in clean, nonabsorbent receptacles or clean, washable laundry bags and stored and transported to prevent contamination of food, clean equipment, clean utensils and single-service and single-use articles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4115. Use of Laundry Facilities

[formerly paragraph 22:35-5]

A. Laundry facilities on the premises of a food establishment or retail food store/market shall be used only for the washing and drying of items used in the operation of the establishment and located away from food preparation areas.

B. Linens which are not laundered on the premises may be sent to an off premise commercial laundry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4117. Living Areas

[formerly paragraph 22:36]

A. Living or sleeping quarters such as a private home, a room used as living or sleeping quarters, or an area directly opening into a room used as living or sleeping quarters, shall not be used for conducting food establishment or retail food store/market operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4119. Maintenance Equipment

[formerly paragraph 22:37]

A. Maintenance tools such as brooms, mops, vacuum cleaners, and similar equipment shall be:

1. stored so they do not contaminate food, equipment, utensils, linens, and single-service and single-use articles; and

2. stored in an orderly manner that facilitates cleaning.

B. Mops should be hung and/or stored in a manner to facilitate air drying.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4121. Reduced Oxygen Packaging Criteria

[formerly paragraph 22:39]

A. A food establishment or retail food store/market that packages food using a reduced oxygen packaging method shall have a Hazard Analysis Critical Control Point (HACCP) plan as specified in §311 which provides the following information:

1. identifies the food to be packaged;

2. limits the food packaged to a food that does not support the growth of *Clostridium botulinum* because it complies with one of the following:

- a. has a water activity of (a_w) of 0.91 or less;
- b. has a pH of 4.6 or less;

c. is a meat product cured at a food processing plant regulated by the USDA or the Louisiana. Department of Agriculture using substances specified in 9 CFR 318.7 Approval of substances for use in the preparation of products and 9 CFR 381.147 Restrictions on the use of substances in poultry products and is received in an intact package; or

d. is a food with a high level of competing organisms such as raw meat or raw poultry;

3. specifies methods for maintaining food at 41EF (5EC) or below;

4. describes how the packages shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:

a. maintain the food at 41EF (5EC) or below, and

b. discard the food if within 14 calendar days of its packaging it is not served for on-premises consumption, or consumed if served or sold for off-premise consumption;

5. limits the shelf life to no more than 14 calendar days from packaging to consumption or the original manufacturer's "sell by" or "use by" date, which ever occurs first;

6. includes operational procedures that:

a. prohibit contacting food with bare hands;

b. identify a designated area and the method by which:

i. physical barriers or methods of separation of raw foods and ready-to eat foods minimize cross-contamination, and

ii. access to the processing equipment is restricted to responsible trained personnel familiar with the potential hazards of the operation, and

c. delineate cleaning and sanitization procedures for food-contact surfaces; and

7. describes the training program that ensures that the individual responsible for reduced oxygen packaging (vacuum packaging) operation understands the:

a. concepts required for a safe operation;

b. equipment and facilities, and

c. procedures specified in Paragraph A.6 of this subsection and the HACCP plan.

B. Except for fish that is frozen before, during, and after packaging, a food establishment may not package fish using a reduced oxygen packaging method.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4123. Smoked Meat Preparation, Not Fully Cooked

[formerly paragraph 22:40-1]

A. Not fully cooked smoked meats, also referred to as "partially cooked meats," shall be heated to a temperature and time sufficient to allow all parts of the meat to reach between 100EF and 140EF. This product shall be labeled on each retail package "FURTHER COOKING REQUIRED" with lettering of not less than one-half inch.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4125. Smoked Meat Preparation, Fully Cooked

[formerly paragraph 22:40-2]

A. Fully cooked smoked meats shall be heated at a temperature and time sufficient to allow all parts of the meat

to reach 155EF except poultry products which shall reach 165EF with no interruption of the cooking process and fish which shall reach 145EF.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4127. Open Air Markets

A. Markets commonly called "open air markets," "curb markets" or "open front markets" shall store all food products above the floor or ground level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4129 Itinerant Food Establishments, Itinerant Retail Food Stores/Markets Permit **[formerly paragraph 22:34-1]**

A. No itinerant food establishment or itinerant retail food store/market shall operate without first applying for and receiving a permit from the state health officer.

B. Seasonal permits issued to itinerant food establishments or itinerant retail food stores/markets should coincide with the legally set seasons for the products those markets plan to handle or sell and expire the last day of the season.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4131. Itinerant Food Establishments, Itinerant Food Stores/Markets Plans **[formerly paragraph 22:34-2]**

A. Plans and specifications for all proposed itinerant food establishments or itinerant retail food stores/markets shall be submitted to the state health officer for review and approval before applying for and receiving a permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 43. Inspections and Enforcement

§4301. Inspections, Frequency **[formerly paragraph 22:42-1]**

A. Inspections of food establishments or retail food stores/markets shall be performed by the department as often as necessary for the enforcement of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4303. Inspections, Access **[formerly paragraph 22:42-2]**

A. Representatives of the state health officer, after proper identification, shall be permitted to enter any food establishment or retail food store/market at any time for the purpose of making inspections to determine compliance with this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4305. Inspections, Records

[formerly paragraph 22:42-3]

A. The state health officer shall be permitted to examine the records of food establishments or retail food stores/markets to obtain information pertaining to food and supplies purchased, received, or used, or to persons employed. Such records shall be maintained for a period of not less than six months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4307. Inspections, Reports **[formerly paragraph 22:42-4]**

A. Whenever an inspection of a food establishment or retail food store/market is made, the findings shall be recorded on an inspection report form. A copy of the completed inspection report shall be furnished to the person in charge of the food establishment or retail food store/market at the conclusion of the inspection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4309. Enforcement, General

[formerly paragraph 22:43-2]

A. Enforcement procedures shall be conducted in accordance with Part I of this Title.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4311. Enforcement, Critical Violations **[formerly paragraph 22:43-2]**

A. Critical items, such as, but not limited to a potentially hazardous food stored at improper temperature, poor personal hygienic practices, not sanitizing equipment and utensils, no water, contaminated water source, chemical contamination, sewage backup or improper sewage disposal, noted at the time of inspection shall be corrected immediately or by a time set by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4313. Enforcement, Noncritical Violations **[formerly paragraph 22: 43-3]**

A. Noncritical items noted at the time of inspection shall be corrected as soon as possible or by a time limit set by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4315. Enforcement, Adulterated Food **[formerly paragraph 22:43-4]**

A. Any food product that is adulterated, misbranded or unregistered is subject to seizure and condemnation by the state health officer according to law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 45. Mobile Food Establishments, Mobile Retail Food Stores/Markets and Pushcarts [formerly paragraph 22:34-3]

§4501. Interior of Vehicles

A. The interior of vehicles where food products are prepared and stored shall be constructed of a smooth, easily cleanable surface and maintained in good repair.

B. The interior of vehicles where food products are prepared and stored shall be kept clean.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4503. Packaged Food Products

[formerly paragraph 22:34-4]

A. Trucks or vendors selling packaged food products such as ice cream, frozen novelties, meats, etc. shall operate from a base of operation where leftover products may be properly stored and inspected and the vehicle serviced. Packaged potentially hazardous foods shall be stored in accordance with §1309 and §1313.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4505. Produce

[formerly paragraph 22:34-5]

A. Produce vendors shall comply with §1101, §1103, §1107, §4101 and Chapter 15 of this Part. The produce should be protected by some type of enclosure or cover on the vehicles. Any produce left at the end of the day should be properly stored and protected from insects and rodents overnight.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4507. General

[formerly paragraph 23:117-1]

A. Mobile food establishments, mobile retail food stores/markets or pushcarts shall comply with the requirements of this Part, except as otherwise provided in this section and in §4129. The department may impose additional requirements to protect against health hazards related to the conduct of the food establishment or retail food store/market as a mobile operation, may prohibit the sale of some or all potentially hazardous food and when no health hazard will result, may modify requirements of this Part relating to physical facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4509. Plans Submission

[formerly paragraph 22:34-2]

A. Properly prepared plans and specifications for mobile food establishments, mobile retail food stores/markets and pushcarts shall be submitted to the state health officer for review and approval before construction is begun.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4511. Permit

[formerly paragraph 23:125]

A. No person shall operate a mobile food establishment, mobile retail food store/market or pushcart who does not have a valid permit issued to him by the state health officer. Only a person who complies with the requirements of this Part shall be entitled to receive or retain such a permit. Permits are not transferable. A valid permit shall be posted in every mobile food establishment, mobile retail food store/market or pushcart.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4513. Issuance of Permits

[formerly paragraph 23:126-1]

A. Any person desiring to operate a mobile food establishment, mobile retail food store/market or pushcart shall make written application for a permit on forms provided by the state health officer. Such application shall include the name and address of each applicant, the location and type of the proposed mobile food establishment, mobile retail food store/market or pushcart, and the signature of each applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4515. Restricted Operations

[formerly paragraph 22:34-6]

A. Boiled peanuts shall be handled in accordance with guidelines set by the state health officer.

B. Hot tamales shall be handled in accordance with guidelines set by the state health officer.

C. Seafood

1. Boiled seafood shall be cooked and handled in accordance with guidelines set by the state health officer.

2. Oysters sold by the sack must be in an enclosed, mechanically refrigerated vehicle and comply with §1101, §1103, §1107, §1109 and §1117 of this Part.

3. Live crabs or crawfish sold by the bushel or sack must be stored either on ice in an enclosed, insulated vehicle or in an enclosed mechanically refrigerated vehicle and comply with §1101, §1103 and §1117 of this Part.

4. Raw shrimp vendors:

a. shall store their shrimp in containers such as ice chests which are smooth, impervious and easily cleanable. The use of styrofoam is prohibited;

b. shall maintain shrimp at a temperature of 41EF (5EC) in accordance with §1309 of this Part;

c. shall provide a minimum one gallon container of sanitizer solution at the proper strength in accordance with §2513.A.2 to rinse hands, scoops, scales, ice chests, etc., as needed; and

d. shall provide paper hand towels and a waste receptacle.

5. Waste water from any seafood vendor shall be disposed of properly in accordance with §2901. Waste water shall be collected in an approved, covered, labeled container for proper disposal. The discharging of waste water onto the ground or into a storm drainage system is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4517. Single-Service Articles

[formerly paragraph 23:119]

A. Mobile food establishments, mobile retail food stores/markets or pushcarts shall provide only single-service articles for use by the consumer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4519. Water System

[formerly paragraph 23:120]

A. A mobile food establishment, mobile retail food store/market requiring a water system shall have a potable water system under pressure. The system shall be of sufficient capacity to furnish enough hot and cold water for food preparation, utensil cleaning and sanitizing, and handwashing, in accordance with the requirements of this regulation. The water inlet shall be located so that it will not be contaminated by waste discharge, road dust, oil, or grease, and it shall be kept capped unless being filled. The water inlet shall be provided with a transition connection of a size or type that will prevent its use for any other service. All water distribution pipes or tubing shall be constructed and installed in accordance with the requirements of Chapter XIV of this Title. An approved gauge shall be provided to determine contents level.

B. Potable water shall come from an approved source in accord with the requirements of Chapter XII of this Title.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4521. Waste Retention

[formerly paragraph 23:121]

A. If liquid waste results from operation of a mobile food establishment or mobile retail food store/market, the waste shall be stored in a permanently installed retention tank that is of at least 15 percent larger capacity than the water supply tank. Liquid waste shall not be discharged from the retention tank when the mobile food establishment or mobile retail food store/market is in motion. All connections on the vehicle for servicing mobile food establishment or mobile retail food store/market waste disposal facilities shall be of a different size or type than those used for supplying potable water to the mobile food establishment or mobile retail food store/market. The waste connection shall be located lower than the water inlet connection to preclude contamination of the potable water system. An approved gauge shall be provided to determine content levels.

B. Wastewater from mobile food establishments or mobile retail food stores/markets shall be disposed of in accord with §2901 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4523. Base of Operations/Commissary

[formerly paragraphs 23:122, 23:123, 23:124]

A. Mobile food establishments, mobile retail food stores/markets and pushcarts shall operate from a commissary or other fixed food establishment and shall

report at least daily to such location for all supplies and for all cleaning and servicing operations.

B. The commissary or other fixed food establishments used as a base of operation for mobile food establishments, mobile retail food stores/markets, or pushcarts shall be constructed and operated in compliance with the requirements of this Part.

C. Servicing Area

1. A servicing area shall be provided and shall include at least overhead protection for any supplying, cleaning, or servicing operation. Within this servicing area, there shall be a location provided for the flushing and drainage of liquid wastes separate from the location provided for water servicing and for the loading and unloading of food and related supplies.

2. The surface of the servicing area shall be constructed of a smooth nonabsorbent material, such as concrete or machine-laid asphalt and shall be maintained in good repair, kept clean, and be graded to drain.

3. Potable water servicing equipment shall be installed according to law and shall be stored and handled in a way that protects the water and equipment from contamination.

4. The liquid waste retention tank, where used, shall be thoroughly flushed and drained during the servicing operation. All liquid waste shall be discharged to a sanitary sewage disposal system in accordance with §2901 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

Chapter 47. Temporary Food Service

§4701. General

[formerly paragraph 23A:002]

A. The state health officer or his/her duly authorized representative may impose requirements in addition to those set forth below to protect against health hazards related to the operation of the temporary food service, may prohibit the sale of some or all potentially hazardous foods, and when no health hazard will result, may waive or modify requirements of the state sanitary code, in accordance with the Administrative Procedure Act. Nothing in this Part shall be construed to abridge the constitutional rights of the people to peaceably assemble.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4703. Permits

[formerly paragraph 23A:003]

A. A temporary food service permit is not required for those fairs or festivals expressly exempted from regulation by R.S. 40:4.1 thru R.S. 40:4.6 inclusive.

B. When an organizer, promoter, or chairman of an exempted fair or festival makes written request for Office of Public Health inspections and permits and pays applicable fees, he or she shall comply with §4705 of this Part.

C. All fairs or festivals not exempted by Subsection A of this Section, shall not be allowed to operate until applying for, paying applicable fees, and receiving a valid permit to operate from the state health officer or his/her duly authorized representative.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4705. Written Application
[formerly 23A:003-1]

A. Written application for permit (LHS-31A), signed agreement, and supplemental application (obtainable from the parish health unit) should be received by the state health officer or his/her duly authorized representative at least thirty days in advance of the proposed gathering.

B. A permit to operate shall be required of the festival, fair or other special event organizer or promoter and must be obtained from the local parish health unit. The application for permit shall include the:

1. name and location of the special event;
2. permanent mailing address and phone number;
3. name of the property owner;
4. opening date and closing date;
5. daily hours of operation;
6. size of site (square feet);
7. anticipated maximum attendance at any one time;
8. name of the event organizer or promoter;
9. home address and phone number of the organizer or promoter;
10. business address and phone number of the organizer or promoter;
11. list of each individual food operator/ responsible person, including their home address, home phone number, business phone, and food items to be sold;
12. outline map showing the location of all proposed and existing:
 - a. toilets;
 - b. lavatory facilities;
 - c. water supply sources (including storage tanks) and distribution system;
 - d. food service areas (including diagram and description of the types of booths, tents, etc. to be used for the preparation of or dispensing of any food or beverage products);
 - e. garbage and refuse storage and disposal areas;
 - f. special event command post; and
 - g. location of sewage disposal.

C. The following optional information is recommended to be included with the application for permit (on the outline map):

1. areas of assemblage;
2. camping areas (if any);
3. entrance and exits to public roadways;
4. emergency ingress and egress roads;
5. emergency medical and local enforcement command posts;
6. parking facilities;
7. written plan for dust control; and
8. written plan for emergency situations. (e.g. inclement weather, etc).

D. A permit to operate shall be required of each Individual Food Operator/Responsible Person operating a temporary food service unit/booth and must be obtained from the local parish health unit. Permits are not transferrable and shall be issued for each food and/or beverage unit/booth. Permits shall be posted in the temporary food service unit/booth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4707. Ice/Wet Storage
[formerly paragraph 23A:004]

A. Ice shall be made and stored as required by §1907 of this Part and Chapter VI of this Title. Ice scoops must be used. The use of dry ice and/or frozen gel packs are recommended for cold storage. Storage of packaged food in contact with water or undrained ice is prohibited. Sandwiches shall not be stored in direct contact with ice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4709. Equipment
[formerly paragraph 23A:004-1]

A. Equipment and food contact surfaces shall comply with Chapter 21 and Chapter 25 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4711. Food Source and Protection
[formerly paragraph 23A:005-1]

A. Food shall be obtained, prepared, stored, handled and transported in accordance with Chapter 11, Chapter 13, Chapter 15, Chapter 17 and Chapter 19 of this Part. The sale of potentially hazardous home prepared food is prohibited.

B. The re-use of containers made of paper, wood, wax, or plastic coated cardboard is prohibited. Containers made of glass, metal, or hard plastic may be re-used only after they are properly washed, rinsed and sanitized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4713. Personal Hygiene
[formerly paragraph 23A:007]

A. Each person working in a food booth shall comply with Chapter 7 and Chapter 9 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4715. Food Stand/Booth Construction
[formerly paragraph 23A:008]

A. [formerly paragraph 23A:008-1] Indoor booths must be constructed with tables, counters, and/or walls on all sides to control patron access. Food service must be from the rear area of the booth or otherwise dispensed to prevent contamination by customers.

B. [formerly paragraph 23A:008-2] Outdoor booths must be constructed to include a roof made of wood, canvas, or other material that protects the interior of the booth from the weather and be enclosed by counters/walls to control patron access.

1. It is recommended that the booth be enclosed on three sides with the fourth, front side encompassing the service area, so constructed as to minimize the entrance of dust, flies and vermin. The use of screen, mosquito netting, or polyurethane for this purpose is acceptable; counter-service openings shall be minimal.

2. Additional protective covering must be provided to completely enclose outer openings in the event of rain, dust storms or other inclement weather.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4717. Floors

[formerly paragraph 23X:008-3]

A. Floors shall be kept clean, in good repair and level, so as not to allow the pooling of water. It is recommended that floors be constructed of concrete, asphalt, or similar material. Dirt or gravel, when graded to drain, may be used, however, clean removable pallets, duckboard, plywood, or similar material is recommended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4719. Barbecue Places

[formerly paragraph 23A:008-4]

A. Places where barbecue is cooked must be provided with a cover impenetrable by rain or barbecue pits must be provided with covers. All food storage and handling must comply with §4711 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4721. Seafood Boils

[formerly paragraph 23A:008-5]

A. Seafood boiling areas must be provided with a cover impenetrable to rain or a covered boiling apparatus. All food storage and handling must comply with §4711 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4723. Exception

[formerly paragraph 23A:008-6]

A. Pre-packaged, pre-wrapped and properly labeled (according to the provisions of the Louisiana Food, Drug and Cosmetic Law) foods may be offered for sale in open type food stands, providing such food is properly stored and handled as described in this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4725. Sanitizing of Utensils and Equipment

[formerly paragraph 23A:009]

A. All utensils and equipment must be washed, rinsed and sanitized at least daily, or as required in Chapter 25 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4727. Water

[formerly paragraph 23A:010]

A. Enough potable water from an approved source shall be provided for drinking, food preparation, for cleaning and sanitizing utensils and equipment, and for handwashing in

accordance with Chapter 27 and Chapter 31 of this Part and Chapter XII of this Title.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4729. Sewage (Toilets and Waste)

[formerly paragraph 23A:011]

A. Approved facilities shall be provided and maintained for the disposal of all sewage and liquid waste in accordance with §2901 of this Part and Chapter XIII of this Title.

B. Toilets shall be provided at the rate of one per 200 persons or fractional part thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4731. Hand Washing

[formerly paragraph 23A:012]

A. When water under pressure is available, a hand washing facility shall be provided in accordance with §3109 of this Part.

B. When water under pressure is not available at the serving or food dispensing booth, two buckets of water shall be provided for each food concessionaire. One bucket containing potable water must be provided to remove extraneous materials or excess food particles; a second bucket containing a sanitizing solution (100 ppm chlorine, or 25 ppm iodine, or 200 ppm quaternary ammonia) must be provided as a hand dip well.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4733. Refuse (Garbage and Trash)

[formerly paragraph 23A:013]

A. All garbage and refuse shall be handled in accordance with Chapter 33 of this Part and Chapter XXVII of this Title.

B. A 50 gallon refuse container shall be provided at the rate of one for each 100 persons at peak anticipated attendance. In addition, each food vendor must have a covered refuse container for booth use.

C. Grease containers must be provided and all used grease must be deposited in these containers. Grease must not be poured down any drain.

D. The grounds and immediate surrounding properties shall be cleaned of refuse as soon as possible following the assembly, within and not exceeding 24 hours of closure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4735. Miscellaneous

[formerly paragraph 23A:014-1 and 23A:014-2]

A. The grounds of each fair, festival and/or temporary food service site shall be well drained and so arranged to provide sufficient space for people assembled, vehicles, sanitary facilities, and equipment.

B. All tents, cars, trailers, food stands and other appurtenances connected with the fair or festival shall at all times be kept in a clean and sanitary condition; and the grounds on which the fair or festival is located shall be kept in a clean and sanitary condition and, when vacated, left in a clean and sanitary condition.

C. The grounds shall be maintained free from accumulations of refuse, health and safety hazards, and from dust wherever possible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4737. Vector Control

[formerly paragraph 23A:014-2]

A. Insects, rodents, and other vermin shall be controlled by proper sanitary practices, extermination, or other safe and effective control methods in accord with applicable sections of Chapter 35 and Chapter 39 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

§4739. Inspections/Violations/Closure

[formerly paragraph 23A:015]

A. All food operations are subject to at least daily inspections by representatives of the department.

B. Critical violations shall be corrected in accordance with §4311 of this Part.

C. Noncritical violations shall be corrected in accordance with §4313 of this Part.

D. Failure to make the necessary corrections or repeated violations will result in monetary penalties, sanctions, suspension of permit, seizure of food and/or further legal action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:

The following Table of Contents and Cross Reference listings (Item A. and Item B. respectively) are included as tools to assist staff and/or the public in locating provisions included in the preceding proposed rule which would repeal and replace Chapter XXII, Chapter XXIII, and Chapter XXIII A of the Sanitary Code. The referenced listings are as follows:

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§4727	-	23A:010
§4729	-	23A:011
§4731	-	23A:012
§4733	-	23A:013
§4735	-	23A:014-1 and 23A:014-2
§4737	-	23A:014-2
§4739	-	23A:015

Family Impact Statement

In compliance with the provisions of R.S. 49:972 as legislated by Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this above proposed rule on the family has been considered. The proposed rule has no known impact on the family functioning, stability nor autonomy as described in R.S. 49:972.

A public hearing on the adoption of this proposed rule change will be held on Thursday December 27, 2001 at 1:30 p.m. at 6867 Bluebonnet Boulevard, Room 230, Baton Rouge, LA. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing.

Interested persons may also submit written comments to Jody Guidry, Program Administrator, 6868 Bluebonnet Boulevard, Baton Rouge, LA 70810. He is responsible for responding to inquiries regarding this adoption. The deadline for the receipt of all written comments is 4:30 p.m. on the next day following the public hearing as scheduled.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Retail Food Establishments

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

It is anticipated that the agency will incur an implementation cost of approximately \$150,000 in FY 01-02 for required operating expenses, allocated costs, professional services and equipment costs as required at implementation. Estimated ongoing costs of approximately \$30,000 for FY 02-03 and FY03-04 include allocated costs and a reduction in operating expenses (i.e., removal of one-time implementation costs for necessary start up equipment purchases, professional service purchases and the required *Louisiana Register* publication costs).

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

Only the food safety certification section of the proposed rule shall have an anticipated effect on revenue collections. Food establishments which were previously exempted from obtaining a five year state food safety certificate will now be required to obtain a food safety certificate. An estimated additional revenue collection of \$150,000 is being projected for FY 01-02 based upon 6,000 previously exempted establishments being required to obtain a food safety certificate at \$25 each. Additional projected revenue collections of \$30,000 per year for FY 02-03 and FY 03-04 are being estimated at a 20 percent annual renewal rate based upon the issuance of approximately 1,200 certificates at \$25 each.

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

The estimated cost to each food establishment owner is \$50 to \$125 for private programs which teach the food safety course and an additional \$25 for the state food safety certificate. Estimating a maximum of 40 students per course, an additional 150 courses will probably be offered in the first year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The implementation of this rule will require approximately 6,000 owners or employees of food establishments to take a food safety certification course. This will increase employment

for food safety certification course providers but should have no effect on competition.

Madeline McAndrew
Assistant Secretary
0111#094

H. Gordon Monk
Staff Director
Legislative Office

NOTICE OF INTENT

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

Inpatient Hospital Services Medicare Part A

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed rule is adopted in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 10 of the 1999 Regular Session of the Louisiana Legislature contained provisions limiting the payment of co-insurance and deductibles for inpatient hospital services rendered to dually eligible Medicare/Medicaid recipients to the Medicaid maximum payment effective July 1, 1999. The provisions of Act 10 specifically excluded small rural hospitals from this limitation of payment to the Medicaid maximum. However, as a result of a budgetary shortfall, the Bureau determined it was necessary to include small rural hospitals and hospital skilled nursing units in the payment limitation established for inpatient hospital services rendered to Medicare/Medicaid recipients (*Louisiana Register*, Volume 26, Number 11). The Medicare payment was compared to the Medicaid per diem rate on file for the small rural hospital or hospital skilled nursing unit. If the Medicare payment exceeded the Medicaid rate, the claim was adjudicated as a paid claim with a zero payment. If the Medicaid rate exceeded the Medicare payment, the claim was reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment.

Act 1485 of the 1997 Legislative Session (Rural Hospital Preservation Act) acknowledges the value of rural hospitals in the health care delivery system of the state and mandates efforts to assure the continued viability of rural hospitals.

In compliance with Act 1485 of the 1997 Legislative Session and as a result of the allocation of funds by the Legislature during the 2001 Regular Session, the bureau proposes to amend the November 2000 rule to exclude small rural hospitals and skilled nursing units located in small rural hospitals from the provisions limiting the payment of co-insurance and deductibles for inpatient hospital services rendered to dually eligible Medicare/Medicaid recipients to the Medicaid maximum payment.

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

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amends the November 20, 2000 rule to exclude small rural hospitals and skilled nursing units located in small rural hospitals from the provisions limiting the payment of co-insurance and deductibles for inpatient hospital services rendered to dually eligible Medicare/Medicaid recipients to the Medicaid maximum payment.

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

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Thursday, December 27, 2001, at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Inpatient Hospital Services Medicare Part A

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 \$557,526 for SFY 2001-02, \$1,608,000 for SFY 2002-03, and \$1,656,240 for SFY 2003-04. It is anticipated that \$120 (\$60 SGF and \$60 FED) will be expended in SFY 2001-2002 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$1,323,383 for SFY 2001-02, \$3,817,100 for SFY 2002-03, and \$3,931,613 for SFY 2003-04.

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

Implementation of this proposed rule will increase payments to small rural hospitals as a result of excluding these hospitals from the limitation of payment up to the Medicaid maximum for inpatient services provided to Medicare/Medicaid recipients by approximately \$1,880,789 for SFY 2001-02, \$5,425,100 for SFY 2002-03, and \$5,587,853 for SFY 2003-04.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

It is anticipated that this proposed rule will have no effect on competition. For those rural hospitals that are experiencing financial difficulties, this increase in reimbursement may facilitate the continued operation of these facilities and thereby have a positive effect on local employment.

Ben A. Bearden
Director
0111#085

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 Definition of Deprivation

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt the following rule under the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This proposed rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule promulgating the state and federal requirements and procedures that govern the determination of eligibility for persons applying for benefits under Title XIX of the Social Security Act and are contained in the Medicaid Eligibility Manual (*Louisiana Register*, Volume 22, Number 5). The employment status of the family's principal wage earner (PWE) is currently considered in the determination of Medicaid eligibility. In order to receive benefits under the Low Income Families with Children (LIFC) or child-related Medically Needy Programs, a child must be deprived of the support of a parent for one of several reasons. This includes unemployment/underemployment of the parent who is the PWE.

The PWE is considered to be unemployed/underemployed when:

- 1) he/she works less than 100 hours a month, or
- 2) his/her employment exceeds 100 hours per month for a particular calendar month, but the work is intermittent and he/she worked less than 100 hours per month in the prior two calendar months and is expected to work less than 100 hours during the next calendar month. The Bureau proposes to amend Section I of the May 20, 1996 rule to repeal the current definition of deprivation based on unemployment that is used in determining Medicaid eligibility for the Low Income Families with Children and the child-related Medically Needy Programs.

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. It is anticipated that this proposed rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972. This proposed rule will allow parents with minor children to receive healthcare benefits and supports that may not otherwise be available to the family.

Proposed Rule

Effective for applications taken on or after March 1, 2002, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, repeals the definition of deprivation based on unemployment contained in Section I of the May 1996 rule and establishes a new definition to be used in the determination of Medicaid eligibility for the Low Income Families with Children and the child related Medically Needy Programs. Deprivation based on unemployment shall be defined as a household having a total gross earned income that is less than 100 percent of the Federal Poverty Income Guidelines for the corresponding household size.

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

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Thursday, December 27, 2001 at 9:30 a.m. in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Medicaid Eligibility
Definition of Deprivation**

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 \$56,551 for SFY 2001-02, \$190,445 for SFY 2002-03, and \$215,362 for SFY 2003-04. It is anticipated that \$120 (\$60 SGF and \$60 FED) will be expended in SFY 2001-2002 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 \$134,161 for SFY 2001-02, \$452,083 for SFY 2002-03, and \$511,232 for SFY 2003-04.

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

This proposed rule will allow approximately 160-200 families with minor children to receive health care benefits and supports that may not otherwise be available to the family. Implementation of this proposed rule will increase payments to providers of Medicaid services by approximately \$190,592 for SFY 2001-02, \$642,528 for SFY 2002-03, and \$726,594 for SFY 2003-04.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

There is no known effect on competition and employment.

Ben A. Bearden
Director
0111#086

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Board of Private Investigator Examiners**

Public Comments at Board Meetings (LAC 46:LVII.113)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of R.S. 37:3505B(1), the Department of Public Safety and Corrections, Board of Private Investigator Examiners, hereby gives notice of its intent to amend Part LVII of Title 46, by adding Chapter 1, Section 113, to provide that a public comment period shall be held at or near the beginning of each board meeting, as required by R.S. 47:5(D).

This rule and regulation is an amendment to the initial rules and regulations promulgated by the Board of Private Investigator Examiners.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LVII. Private Investigator Examiners

Chapter 1. Organizational and General Provisions

§113. Public Comments at Board Meetings

A. A public comment period shall be held at or near the beginning of each board meeting. Persons desiring to present public comments shall notify the board chairman or the executive director no later than the beginning of the meeting. However, to assure that an opportunity is afforded all persons who desire to make public comments, the chairman shall inquire at the beginning of the meeting if there are additional persons who wish to comment. The chairman shall allot the time available for the public comments in an equitable manner among those persons desiring to comment, limiting each person to a maximum of three minutes, with the total comment period not to exceed thirty minutes. Each person making public comments shall identify himself and the group, organization or company he represents, if any.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:5(D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Investigator Examiners, LR 28:

Comments should be forwarded to Charlene Mora, Chairman, State Board of Private Investigator Examiners, 2051 Silverside Drive, Suite 190, Baton Rouge, LA 70808. Written comments will be accepted through the close of business on December 10, 2001.

A copy of these rules may be obtained from the Louisiana State Board of Private Investigator Examiners, 2051 Silverside Drive, Suite 190, Baton Rouge, LA 70808, telephone number (225) 763-3556.

Charlene Mora
Chairman

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

RULE TITLE: Public Comments at Board Meetings

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

There will be no implementation costs for this amendment.

The rule establishes procedures for allowing public comments at Board meetings, as required by La. R.S. 42:5D.

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Celia R. Cangelosi
Attorney
0111#039

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Gaming Control Board**

Electronic Cards, General Credit Provisions
(LAC 42:III.201)

The Louisiana Gaming Control Board hereby gives notice that it intends to adopt LAC 42:III.201 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 III. Gaming Control Board

Chapter 2. Electronic Cards

§201. General Credit Provisions

A. No Casino Operator, Casino Manager or licensee shall issue electronic cards or smart cards that have the capability of allowing patrons to access any line of credit or account, debit an account at any bank, financial institution, credit card company or similar entity, obtain credit through a credit agreement with any bank, financial institution, credit card company or similar entity or allow patrons to incur debt in any manner not provided in the respective Casino Operator's, Casino Manager's or licensee's internal controls as approved by the division.

B. All electronic cards or smart cards issued by the Casino Operator, Casino Manager or any licensee for the purpose of wagering shall be prepaid with a fixed dollar amount that shall not be susceptible of being increased by patrons without purchasing additional value in a manner consistent with the respective Casino Operator's, Casino Manager's or licensee's internal controls as approved by the division.

C. Electronic cards or smart cards issued by the Casino Operator, Casino Manager or any licensee shall be used only for wagering at the respective Casino Operator's, or licensee's property.

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 28:

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 LAC 42:III.201.

It is accordingly concluded that adopting LAC 42:III.201 would appear to have a positive yet inestimable impact on the following:

1. the effect on the stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervisions 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.

All 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 December 10, 2001, to 339 Florida Street, Suite 500, Baton Rouge, LA 70801.

Hillary J. Crain
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Electronic Cards,

General Credit Provisions

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

It is anticipated that there will be no direct implementation costs or savings to state or local government units.

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

No effect on revenue collections is anticipated.

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

No costs to directly affected persons are expected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is estimated.

Hillary J. Crain
Chairman
0111#036

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Office of State Police Safety Enforcement Section

Motor Vehicle Inspection/Tint Exemption
(LAC 55:III.813)

The Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, in accordance with R.S. 49:950 et seq. and R.S. 32:361.3 gives notice of its intent to amend its rules regulating vehicle inspections by

providing the procedure for obtaining an exemption to the window tint requirements.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 8. Motor Vehicle Inspection

Subchapter B. Safety Inspections

§813. Required Equipment

A. - T.7.c. ...

d. The following non-exclusive list of persons, or entities, shall be eligible for a security exemption from the provisions of R.S. 32:361.1:

- i. private investigators;
- ii. bail enforcement agents;
- iii. railroad police officers;
- iv. Louisiana peace officers, P.O.S.T. certified and sworn;

v. elected or appointed public officials;

vi. businesses, companies, or individuals that, on a regular recurring basis, either sell, or transport high-valued equipment that, by its very nature, has a higher than usual likelihood of being stolen; and

vii. any other individual, business, company, corporation, or agency with the need for added concealment of persons or property from public view.

e. Security Exemption Criteria

i. Vehicle must be:

(a). properly licensed, insured and registered, all in Louisiana; and

(b). owned or leased by an applicant or applying business.

f. Security Exemption Affidavit

i. An individual or business seeking exemption to window tint restrictions can obtain a Security Exemption Affidavit form at Safety Enforcement Headquarters, any Safety Enforcement field office or via the World Wide Web by accessing www.LSP.org.

ii. A listing of Safety Enforcement field office addresses can be obtained by accessing www.doa.state.la.us/services.

iii. The Security Exemption Affidavit must be complete, sworn and subscribed in the presence of a Notary Public. The Security Exemption Affidavit must include:

(a) applicant's name, or company or business name, if applicable;

(b) address, city, state and zip code;

(c) vehicle description (year, make, model);

(d) vehicle identification number (VIN);

(e) vehicle license plate number;

(f) need, reason or explanation for exemption;

and

(g) signature of applicant or company official.

g. Security Exemption Process

i. A completed Security Exemption Affidavit must be mailed to the Safety Enforcement headquarters office, P.O. Box 66614, Mail Slip 48, Baton Rouge, LA 70896-6614. Security Exemption Affidavits will be reviewed and subsequently approved or disapproved by the Safety Enforcement Section Commander, or his designee.

ii. Approved Security Exemption Affidavits will be returned to applicant by U.S. Mail.

iii. An applicant whose Security Exemption Affidavit is disapproved will receive written notification of that decision by U.S. Mail. The correspondence will outline the reason(s) for denial. An applicant may write a letter of rebuttal germane to the reason(s) for denial. Letters of rebuttal will be taken under advisement. Once a final determination of eligibility has been made, an applicant has no further recourse. The Department of Public Safety and Corrections may approve, disapprove, cancel or revoke exemptions for window tint restrictions as deemed appropriate.

U. - EE.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:361.3.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:2428 (December 1999); amended LR 28:

Interested persons may submit written comments to Paul Schexnayder, P.O. Box 66614, Baton Rouge, LA 70896. Written comments will be accepted through December 15, 2001.

Family Impact Statement

1. The Effect of these Rules on the Stability of the Family. These rules will have no effect on the stability of the family.

2. The Effect of these Rules on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. These rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of these Rules on the Functioning of the Family. These rules will have no effect on the functioning of the family.

4. The Effect of these Rules on Family Earnings and Family Budget. These rules will have no effect on family earning and family budget.

5. The Effect of these Rules on the Behavior and Personal Responsibility of Children. These rules will have no effect on the behavior and personal responsibility of children

6. The Effect of these Rules on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. These rules will have no effect on the ability of the family or local government to perform the function as contained in the proposed rules.

Jerry Jones
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Motor Vehicle Inspection C Tint Exemption

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

There should be no additional costs incurred nor savings realized as a result of the adoption of these rules.

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

There should be no effect on revenue as a result of these rules.

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

There should be no costs or economic benefits to any person or group.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment.

Jerry Jones
Undersecretary
0111#046

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Office of Alcohol and Tobacco Control

Class A General Requirements
(LAC 55:VII.315)

Under the authority of R.S. 26:71.1(1)(h) and 271.2(1)(h) and in accordance with Act 1188 of the 2001 Regular Legislative Session and the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, proposes to repeal the current LAC 55:VII.315, as it is obsolete, and enact this regulation to provide for the requirements related to the number and location of public restrooms to be used in conjunction with the licensed premises of each Class A CGeneral retail permit.

Title 55

PUBLIC SAFETY

Part VII. Alcohol and Tobacco Control

Chapter 3. Liquor Credit Regulations

§315. Qualifications for Class A CGeneral Permits

A. A Class A CGeneral retail permit will only be issued to establishments that have public restroom facilities.

1. The restroom facilities must conform to the current regulations as set forth in the Louisiana State Plumbing Code, Chapter XIV of the Louisiana Sanitary Code.

2. A Class A CGeneral permit applicant may not use restrooms located in any other premises, regardless of ownership, to meet the requirement of having their own public restroom facilities pursuant to R.S. 26:71.1(1)(h) and 271.2(1)(h).

3. Failure to meet the requirements of this regulation shall result in the denial, suspension, or revocation of the retail alcohol permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:71.1(1)(h) and 271.2(1)(h).

HISTORICAL NOTE: Adopted by the Department of Public Safety, Office of Alcoholic Beverage Control, 1973, filed at the Office of the State Register, 1974, amended by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 28:

Family Impact Statement Summary

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the notice of intent in the Louisiana Register. A copy of this statement will also be provided to our legislative oversight committees.

1. The Effect on the Stability of the Family. Implementation of this proposed rule will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. Implementation of this proposed rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Implementation of this proposed rule will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Implementation of this proposed rule will have no effect on the earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of this proposed rule will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. Implementation of this proposed rule will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Melissa Gregg, Attorney, Office of Alcohol and Tobacco Control, Department of Revenue, 8549 United Plaza Blvd., Suite 220, Baton Rouge, LA 70809, or by fax to (225) 925-3975. All comments must be submitted by 4:30 p.m., Thursday, December 27, 2001. A public hearing will be held on Friday, December 28, 2001 at 10 a.m. at 8549 United Plaza Blvd., Suite 220, Baton Rouge, LA. 70809.

Murphy J. Painter
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Class A General Requirements**

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

Implementation of this proposed rule, which provides that Class A-General retail liquor and beer permits will only be issued to establishments that have public restroom facilities that comply with the requirements of the Louisiana State Plumbing Code, Chapter XIV of the Louisiana Sanitary Code, will have minimal impact on the agency's costs.

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

Adoption of this proposed rule will have no impact on revenue collections.

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

Establishments with Class A-General retail liquor and beer permits will be required to provide restroom facilities that conform to the Louisiana State Plumbing Code, Chapter XIV of the Louisiana Sanitary Code. Most permit holders already comply with these standards. Establishments that do not meet the standards will incur the additional costs to bring their restroom facilities into compliance.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation should have no effect on competition or employment.

Murphy J. Painter
Commissioner
0111#048

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Insufficient Funds Checks (LAC 61:I.4908)

Under the authority of R.S. 47:1511 and 1576 and in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., The Department of Revenue, Policy Services Division, proposes to adopt LAC 61:I.4908 pertaining to insufficient funds checks.

Revised Statute 47:1576, entitled "Remittance of tax under protest; suits to recover," provides a mechanism for taxpayers to make tax payments under protest and then file suit within 30 days to recover the payment. This proposed regulation provides that when tax payments made under protest are returned for insufficient funds it will be treated as a failure to remit taxes.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 49. Tax Collection

§4908. Insufficient funds checks

A. In the event a check used to make a remittance of tax under protest pursuant to R.S. 47:1576 is returned unpaid by the bank on which it is drawn for any reason related to the account on which the check is written, such shall constitute a failure to remit taxes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1576.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 28:

Interested persons may submit data, views, or arguments, in writing to Susan Dunham, Assistant Secretary, Office of Legal Affairs, Department of Revenue, P.O. Box 4064, Baton Rouge, LA 70821-4064 or by fax to (225) 219-2090. All comments must be submitted by 4:30 p.m., Thursday, December 27, 2001. A public hearing will be held on Friday, December 28, 2001, at 10:00 a.m. in the Department of Revenue Conference Room 245 at 617 North 3rd Street, Baton Rouge, LA 70802-5428.

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the notice of intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of this proposed rule will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of this proposed rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of this proposed rule will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of this proposed rule will have no effect on the earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of this proposed rule will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of this proposed rule will have no effect on the ability of the family or a local government to perform this function.

Cynthia Bridges
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Insufficient Funds Checks**

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

Implementation of this proposed regulation, which establishes the guideline for handling tax payments under protest that are returned for insufficient funds, will have no implementation costs or savings to state or local governmental units. This proposed regulation acts to clarify the department's current policy.

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

There should be no effect on revenue collections of state or local governmental units as a result of the proposed regulation. These regulations are meant to clarify the current practices of the department.

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

Implementation of this proposed regulation should have no impact on the costs or economic benefits of taxpayers who make tax payments under protest that are returned for insufficient funds.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation should have no effect on competition or employment.

Cynthia Bridges
Secretary
0111#047

H. Gordon Monk
Staff Director
Legislative Fiscal Office

**NOTICE OF INTENT
Department of Revenue
Policy Services Division**

Issuance and Cancellation of a Lien; Fees (LAC 61:I.5302)

Under the authority of R.S. 47:1511, R.S. 47:1577 and R.S. 47:1578 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:I.5302, the rules and regulations governing the issuance of liens and the fees associated with recording and canceling liens.

The Secretary of Revenue is authorized by R.S. 47:1511, R.S. 47:1577 and R.S. 47:1578 to adopt reasonable rules and regulations relating to the issuance and cancellation of tax liens and the fees assessed to taxpayers for its recordation and cancellation. Because a lien may be filed in the parish mortgage records any time after a tax becomes due, whether assessed or not, and regardless of whether or not then payable, LAC 61:I.5302 is proposed to establish guidelines for filing and canceling a lien, as well as the amount to assess taxpayers for its recordation and cancellation.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 53. Miscellaneous Fees

§5302. Issuance and Cancellation of a Lien; Fees

A. A tax lien shall be filed on liabilities when the tax due involves a jeopardy assessment pursuant to R.S. 47:1566.

B. A tax lien may be filed on liabilities when any of the following conditions exist:

1. when liabilities reach warrant for distraint status;
2. information is received indicating the taxpayer is on the verge of bankruptcy;
3. a corporation is in the process of dissolving or withdrawing from the state;
4. the filing history of the taxpayer indicates an effort to avoid the payment of taxes;
5. information indicates that the taxpayer is in the process of selling movable or immovable property;
6. warrants are determined currently not collectible; or
7. a formal installment agreement has been negotiated with the taxpayer.

C. The secretary may authorize the release of a lien subject to the following terms and conditions:

1. when the tax, penalty, fees, or interest secured by a recorded lien have been paid;
2. when the taxpayer executes a surety bond in favor of the secretary in an amount not less than one and one-half times the amount of the obligation due, including penalties, interest, and other costs incurred. The surety bond must be issued by a surety company qualified to do business in Louisiana;
3. when the lien on the taxpayer's remaining real property is valued at not less than the amount of the remaining tax obligation, including all penalties, interest, and other costs incurred, plus the amount of all prior liens on the released property. This provision is subject to approval by the Board of Tax Appeals;
4. when the amount paid to the secretary in partial satisfaction of the liability is not less than the value of the state of Louisiana's interest in the part of the property released. This provision is subject to approval by the Board of Tax Appeals.

D. The secretary with the approval of two assistant secretaries and the Board of Tax Appeals may compromise any judgments for taxes of five hundred thousand dollars or less exclusive of interest and penalty, including assessments for such amounts that are equivalent to judgments, when any of the following conditions exist:

1. there is serious doubt as to the collectibility of the outstanding judgment.

2. there is serious doubt as to the taxpayer's liability for the outstanding judgment.

3. the administration and collection costs involved would exceed the amount of the outstanding liability.

E. The secretary may, with the approval of the Board of Tax Appeals, upon making a record of his reasons, waive, reduce, or compromise individual income tax, penalties, interest, or other amounts.

F. The department shall assess a fee against the taxpayer for the filing of a tax lien and the cancellation of a lien. The amount of the fee to be assessed against the taxpayer shall be determined according to the amount charged the department by the parish in which the lien is filed. In the event a lien is filed in more than one parish for the same taxes, each lien shall be treated separately and the total charges per parish for the liens shall be assessed against the taxpayer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511, R.S. 47:1577, and R.S. 47: 1578.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of the Secretary, LR 28:

Family Impact Statement

The proposed adoption of LAC 61:I.5302, 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. Specifically:

1. The implementation of this proposed rule will have no known or foreseeable effect on the stability of the family.

2. The implementation of this proposed rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.

3. The implementation of this proposed rule will have no known or foreseeable effect on the functioning of the family.

4. The implementation of this proposed rule will have no known or foreseeable effect on family earnings and family budget.

5. The implementation of this proposed rule will have no known or foreseeable effect on the behavior and personal responsibility of children.

6. The implementation of this proposed rule will have no known or foreseeable effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Susan L. Dunham, Assistant Secretary, Office of Legal Affairs, 617 North Third Street, Baton Rouge, LA 70802-5428. All comments must be submitted by 4:30, December 26, 2001. A public hearing will be held on December 27, 2001, at 1:30 p.m. at 617 North Third Street, Baton Rouge, LA 70802-5428.

Cynthia Bridges
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Issuance and Cancellation of a Lien; Fees

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

Implementation of this proposed regulation, which establishes the guidelines for the issuance and cancellation of a

tax lien and for the fees associated with recording and canceling the lien, will have no implementation costs or savings to state or local governmental units. This proposed regulation acts to clarify the department's current policy.

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

There should be no effect on revenue collections of state or local governmental units as a result of this proposed regulation. All fees mentioned in this rule are already being imposed on taxpayers. This proposed regulation acts to clarify the department's current policy.

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

There should be no costs and/or economic benefits to directly affected persons or nongovernmental groups as a result of the proposed regulation. All fees mentioned in this rule are already being imposed on taxpayers. This proposed regulation acts to clarify the department's current policy.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation should have no effect on competition or employment.

Cynthia Bridges
Secretary
0111#040

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Sales and Use Tax Definition of Person (LAC 61:I.4301)

Under the authority of R.S. 47:301 and R.S. 47:1511 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.4301 relative to the definition of person for sales tax purposes.

These amendments provide guidance concerning the exclusion from the definition of person for all or some of the purchases made by the entities listed in R.S. 47:301(8). These entities include governmental agencies, the Society of the Little Sisters of the Poor, independent institutions of higher education, and churches and synagogues. While the first two entities are excluded from the definition of person for all of their purchases, independent institutions of higher education and churches and synagogues have a limited exclusion from the definition of person. Independent institutions of higher education are excluded from the definition for their purchases directly related to the educational mission of the institution while churches and synagogues are excluded from the definition only for their purchases of bibles, songbooks, and religious instruction literature.

In some instances, the entities specified in R.S. 47:301(8) making the types of purchases that qualify them for the exclusion from the definition of person may act through an agent or employee in making the purchase. Two common situations when this occurs are purchases made by government contractors and the renting of hotel rooms to government employees. The amendments to this rule list the circumstances under which purchases by immovable property contractors and the renting of hotel rooms by

employees are equivalent to direct acquisitions by the entity excluded from the definition of person.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 43. Sales and Use Tax

§4301. Definitions

A. - C. ...

* * *

Person

a. The term *person* as used in this Chapter includes:

- i. natural persons; and
- ii. artificial persons, including, but not limited to, corporations, limited liability companies, estates, trusts, business trusts, syndicates, cities and parishes, parishes, municipalities, this state, any district or political subdivision, department or division thereof, any board, agency, or other instrumentality thereof, acting unilaterally or as a group or combination, as well as receivers, referees in bankruptcy, agricultural associations, labor unions, firms, copartnerships, partnerships in commendam, registered limited liability partnerships, joint ventures, associations, singularly or in the plural, who have the legal right or duty, whether explicit, implied or assumed, to perform any of the transactions described in this Chapter.

b. A natural or artificial person's classification as exempt under any other tax statute has no effect on that person's status under the sales tax law. For example, a religious, charitable, educational, scientific, civic, social or fraternal organization, including hospitals and similar institutions, may be statutorily exempted from other taxes but remain classified as persons for sales tax purposes.

c. R.S. 47:301(8) provides exclusions from the definition of person for purchases made by certain entities. Although these entities are not responsible for paying sales and use taxes on some or all of their purchases, they must collect and remit sales tax on their taxable sales transactions.

i. The two entities granted exclusions from paying state and local sales and use tax on all of their purchases are:

(a). the state of Louisiana, its parishes, its municipalities, its special districts, its political subdivisions, and any other agencies, boards, commissions, or instrumentalities of the state or its political subdivisions;

(b). the Society of the Little Sisters of the Poor. Before claiming exemptions, the Society must obtain a certificate of authorization from the Sales Tax Division of the Department of Revenue.

ii. The two entities granted exclusions from paying sales and use tax on some of their purchases are:

(a). regionally accredited independent institutions of higher education that are members of the Louisiana Association of Independent Colleges and Universities. Purchases, leases, or rentals of tangible personal property or purchases of taxable services by these institutions that are directly related to the educational missions of eligible institutions are excluded from state sales and use tax. Purchases, leases, and rentals directly related to the educational mission of the eligible institution are interpreted broadly to include those transactions required to construct, maintain, or supply classrooms, libraries,

laboratories, dormitories, athletic facilities, and administrative facilities. Examples include purchases of supplies, equipment, utilities, leases or rentals of equipment, and repair services to university property;

(b). churches and synagogues exempt under Internal Revenue Code Section 501(c)(3) are excluded from paying state and local sales and use tax on purchases of bibles, songbooks, or literature used for religious instruction classes. Eligible institutions must obtain certificates of authorization from the Sales Tax Division of the Department of Revenue.

d. The exclusion from the definition of person is granted only for purchases made by these entities on their own behalf. Representatives of these entities making purchases for the entity may also be excluded from the definition of person when their purchases are deemed the equivalent of an acquisition by the entity itself. The most common examples of representatives purchasing on behalf of these entities are:

i. mandataries (agents) purchasing materials or leasing or renting equipment for immovable property construction contracts; and

ii. employees purchasing lodging services while traveling on official business of the entity.

e. The following elements establish an immovable property contractor's purchases as the legal equivalent of a R.S. 47:301(8) entity's purchases so as to exclude the transactions from sales and use tax. Additionally, due to the federal government's immunity from state taxation under The Supremacy Clause, U.S. Const. Art. VI, §2, federal contractors satisfying the following criteria are also entitled to the exclusion from the definition of person. The following criteria assume that the R.S. 47:301(8) entity is an immovable property contractor with an agency agreement with a government department or agency.

i. The government department or agency must acquire title to the property at the time of purchase. Except as otherwise provided in the contract between the parties, the risk of loss must be with the governmental entity.

ii. There must be a signed agreement authorizing the contractor to act as purchasing agent for the entity. The department's form, Designation of Construction Contractor as Agent of a Governmental Entity, may be used for this purpose, or a custom agreement may be substituted if it includes all terms and conditions listed in the form prepared by the department. The form is available at any department office and through the department's web site at: www.rev.state.la.us. Copies of the signed agreement must be made available to tax authorities and vendors upon request. Purchases by the designated agent will be recognized as those of the government entity if all parties to the contract strictly follow the terms of the agreement.

f. The following elements establish when the renting of a hotel room to an employee of a R.S. 47:301(8) entity is legally equivalent to the entity's purchase of the service. Additionally, due to the federal government's immunity from state taxation under The Supremacy Clause, U.S. Const. Art. VI, §2, federal employees are also entitled to the exclusion from the definition of person when renting hotel rooms in the state. Since most purchases of lodging services for persons excluded by R.S. 47:301(8) are made by

government employees, the following criteria are drafted from the perspective of those entities:

i. Renting a hotel room to an employee of the United States government, the state of Louisiana, or a political subdivision of the state of Louisiana who is traveling on official business is considered a sale of a service to the government employer regardless of the form of payment to the hotel, provided the lodging services are obtained by the employee at the direction of the employer and accounted to and reimbursed by the government agency.

ii. The exclusion must be documented in one of the following ways:

(a). with a copy of the employee's written travel orders certifying that the government employer will reimburse the actual lodging expenses incurred. The travel orders must be on government letterhead or forms and signed by an authorized representative of the government entity other than the employee engaging the hotel services. The orders must state that the employee is authorized to secure a room for a specific time period at a specific hotel or at a hotel within a defined travel area;

(b). if written travel orders are unavailable or if the travel orders are incomplete or insufficient to satisfy all of the requirements in §4301.C.Person.f.ii.(a), an exemption certificate signed by the employee and the authorized agent of the governmental agency other than the employee will certify the transaction's exempt status. The hotel can accept the department's certificate entitled Certificate of Governmental Exemption from the Payment of Hotel Lodging Taxes or one used by federal agencies, provided the form states that the employee's expenses are reimbursed by the employer in the actual amount incurred.

iii. Hotels must retain this documentation to support a sales tax deduction for room rentals to government employees on official business. Failure to do so will cause the deduction to be disallowed unless the hotel can provide competent independent evidence to certify the exemption's validity. The exemption will also be disallowed if it is determined that the documentation was obtained fraudulently or that the hotel knew the documentation was invalid when the employee presented it.

iv. This exclusion is not allowed on hotel room charges incurred by other nations, other states and their political subdivisions, or their employees.

* * *

AUTHORITY NOTE: Promulgated in Accordance with R.S. 47:301 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Sales Tax Division, LR 21:957 (September 1995), LR 22:855 (September 1996), amended by the Department of Revenue, Policy Services Division, LR 28:1703 (October 2001), LR 28:

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 15409, Baton Rouge, LA 70895-5409 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Wednesday, December 26, 2001. A public hearing will be held on Friday, December 28, 2001, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, Louisiana.

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the notice of intent in the Louisiana Register. A copy of this statement will also be provided to our legislative oversight committees.

1. The effect on the stability of the family. Implementation of this proposed rule will have no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of this proposed rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of this proposed rule will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of this proposed rule will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of this proposed rule will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed rule. Implementation of this proposed rule will have no effect on the ability of the family or a local government to perform this function.

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Sales and Use Tax Definition of Person

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

Implementation of this proposed rule will have no impact on state or local governmental unit's cost. This proposal would furnish greater detail about the definition of a person for sales tax purposes and the exclusions from that definition. This is being done at the request of taxpayers who need assistance in developing procedures to document the exclusions that are granted in R.S. 47:301(8). This rule only attempts to clarify the Department's current policy.

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

There should be no effect on revenue collections of state or local governmental units as a result of this proposed regulation.

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

This proposed regulation would have no costs or economic benefits to the Society of the Little Sisters of the Poor, independent institutions of higher education that are members of the Louisiana Association of Independent Colleges and Universities, churches and synagogues exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code, agents making purchases for government agencies, and all other entities defined as persons in R.S. 47:301(8).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

This proposed regulation should have no effect on competition or employment.

Cynthia Bridges
Secretary
0111#041

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Community Services**

Child Protection Investigation Report Acceptance
(LAC 67:V.1301)

The Department of Social Services, Office of Community Services, proposes to amend the Rule entitled "Child Protection Investigation Report Acceptance" published in the *Louisiana Register* Volume 25, Number 9, September 20, 1999, page 1654.

This proposed Rule regards the receipt of reports of abuse/neglect in family day care homes by the Office of Community Services. Reports received and with no allegations of culpability in the abuse/neglect by parents or legal custodians will be assigned a level of risk based on the information provided by the reporter and referred to law enforcement and, when appropriate to the case circumstances, to other agencies.

Title 67

SOCIAL SERVICES

Part V. Office of Community Services

Subpart 3. Child Protective Services

Chapter 13. Intake

**§1301. Child Protection Investigation Report
Acceptance**

A. - B. ...

C. Response Time. The reports classified as presenting low risk of immediate substantial harm alleged will be assigned a response time of from 24 hours up to 5 calendar days from the date the report was received.

D. - G. ...

H. Reports of abuse/neglect in family day care homes with no allegations of culpability in the abuse/neglect by parents or legal custodians will be assigned a level of risk based on the information provided by the reporter and referred to law enforcement and, when appropriate to the case circumstances, other agencies.

AUTHORITY NOTE: Promulgated in accordance with Articles 610 and 612 G. of the Louisiana Children's Code and R.S. 46:1441.6.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:387 (April 1991), amended LR 18:1246 (November 1992), repromulgated LR 19:165 (February 1993), LR 19:503 (April 1993), amended LR 25:1654 (September 1999), LR 28:

Interested persons may submit written comments for forty days from the date of this publication to Carmen D. Weisner, Assistant Secretary, P.O. Box 3318, Baton Rouge, LA 70821. She is responsible for responding to inquiries.

Family Impact Statement

The Effect on the Stability of the Family. The rule would not change either the parents' or the agency's responsibility

to assure the protection of children and sustain the integrity of the family.

The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. Parents will continue to exercise the authority and rights to educate and supervise their children as they wish provided that they take the actions necessary to protect their children in cases where a family day care home provider has abused or neglected the children or placed them at risk of imminent, substantial harm. In the case of the latter, the agency would assess the need to intervene to fulfill its mandate to protect the safety and well-being of the children when their parents have failed to do so.

The Effect on the Functioning of the Family. In the event that the family fails to perform its roles to protect and nurture children's health and well-being, the rule would not preclude the agency from intervening to improve the family's ability to protect and nurture.

The Effect on Family Earnings and Family Budget. If the act of protecting a child involves placement in another day care setting or direct parental care, parents might incur increased family expenditures or might have to curtail time spent in employment decreasing family income.

The Effect on the Behavior and Personal Responsibility of Children. Children's behavior and personal development will not be compromised by the rule.

The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. Families already assume primary responsibility for the protection of their children from harm; the rule would encourage this role. The agency currently assumes and would continue to assume this responsibility when the child's legal caretaker fails to fulfill it.

Gwendolyn P. Hamilton
Secretary

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

**RULE TITLE: Child Protection Investigation Report
Acceptance**

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

The only cost in FY 01/02 will be the \$400 to print manual material.

There will be no savings as a result of the revision to agency policy.

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

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

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

There will not be any costs or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Debra Johnson
Budget Manager
0111#068

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Social Services Office of Family Support

Child Care Assistance Program Providers
(LAC 67:III.5107)

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 12, the Child Care Assistance Program.

Although a previous Notice of Intent proposed changes at §5107.E, the agency reconsidered some of the amendments and decided not to include these in the final rule (published in this issue). Therefore, the agency now proposes to amend §5107 to expand who cannot be considered an eligible child care provider, to further clarify when a provider may be terminated or permanently terminated as a CCAP eligible provider, and to provide information concerning who provides the periodic listing of unsafe children's products.

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

§5107. Child Care Providers

A. - B.1.e. ...

f. use only safe children's products and remove from the premises any products which are declared unsafe and recalled as required by R.S.46:2701-2711. (CCAP Family Child Day Care Home providers will receive periodic listings of unsafe and recalled children's products from the Consumer Protection section of the Attorney General, Public Protection Division).

A.2. - E. ...

1. A Family Child Day Care Home or an In-Home provider may be immediately and permanently terminated as a CCAP eligible provider if:

a. the agency determines that a condition exists which threatens the physical or emotional health or safety of any child in care;

b. the provider violates the terms of the provider agreement; or

c. the criminal background check shows that the provider has been convicted of, or pled no contest to, a crime listed in R.S. 15:587.1.C.

2. A Family Child Day Care Home provider may be permanently terminated as a CCAP eligible provider if the provider is verified to have more than six children in his/her care.

3. Other situations listed in policy or on the provider agreement may lead to the provider's termination as a CCAP eligible provider. These situations include but are not limited to:

a. a Family Child Day Care Home provider's failure to pass the second inspection by the Fire Marshal;

b. a criminal background check response showing that an adult living at a Family Child Day Care Home provider's residence, or working in the provider's home or on his home property, has been convicted of, or pled no contest to, a crime listed in R.S.15:587.1.C;

c. a provider's failure to timely return all requested forms, fees, etc. at renewal;

d. a Class A Center whose license is not renewed;

e. a school child care provider if the school no longer meets the BESE regulations.

F. - G. ...

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 25:2444 (December 1999), LR 26:2827 (December 2000), LR 28:

Family Impact Statement

This rule will have no impact on the stability and functioning of the family or on parental rights and will have no impact on the budget of the affected family.

Interested persons may submit written comments by December 28, 2001, to Ann S. Williamson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, Louisiana, 70804-9065. She is responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on December 28, 2001, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (504) 342-4120 (Voice and TDD).

Gwendolyn P. Hamilton
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Child Care Assistance Program Providers

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

This rule change primarily affects administrative policy regarding termination of a Family Child Day Care Home Provider. The Child Care Assistance Program (CCAP) costs are restricted by the amount of the federal Child Care and Development Block Grant; no increase in spending is anticipated. The immediate implementation cost to state government is the cost of publishing the rule and any related policy revisions. This cost is minimal and funds for such actions are included in the program budget. There are no costs or savings to local governmental units.

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

There is 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 proposed rule results in no new costs or benefits to any persons or nongovernmental groups. It may, however, allow some providers to continue to be eligible for CCAP payments who would have previously been terminated; benefits would depend on the number of CCAP-eligible children being cared for in the home.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

The proposed actions will have no impact on competition and employment.

Ann S. Williamson
Assistant Secretary
0111#067

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

**State Tax Refund Intercept Increase
(LAC 67:III.2529)**

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 4, Support Enforcement Services (SES), the child support enforcement program.

Act 71 of the 2001 Regular Session Legislature authorized an increase in the fee for income tax refund offsets from \$2.75 to \$4 for each state tax refund offset of \$5 or more intercepted from the noncustodial parent for delinquent support.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 4. Support Enforcement Services

Chapter 25. Support Enforcement

Subchapter I. Tax Refund Offset

§2529. State Tax Refunds

A. ...

B. SES will charge a \$4 fee to non-FITAP custodial parents for each successful state tax refund offset of \$5 or more. This fee will reimburse SES for intercept fees paid to the Department of Revenue and Taxation. The fee charged for the state tax offset will be deducted from the child support checks issued by SES. The noncustodial parent will be given credit for the amount of the check before the fee deduction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:299.1 et seq., 45 CFR 303.102, P.L. 104-193 and P.L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:916 (November 1984), amended by the Department of Social Services, Office of Family Support, LR 17:388 (April 1991), LR 27:81 (January 2001), LR 28:

Family Impact Statement

The proposed rule will have no effect on the stability and functioning of the family.

A public hearing on the proposed rule will be held on December 28, 2001, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, Louisiana beginning 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 Area Code 225-342-4120 (Voice and TDD).

Interested persons may submit written comments on the proposed rule by December 28, 2001, to Ann S. Williamson,

Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA 70804-9065.

Gwendolyn P. Hamilton
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: State Tax Refund Intercept Increase**

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

The only immediate cost to state government is the minimal cost of printing policy revisions, publishing the rule, and programming; these costs are routinely included in the agency's annual budget. No savings to the state is anticipated, and there are no anticipated costs or savings to local governmental units.

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

This rule will result in an increase of \$1.25 per case for an estimated 13,985 cases intercepted for state tax refund offset at an estimated total increase of \$17,481 for Department of Revenue and Taxation.

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

Custodial parents will be impacted minimally due to the slight increase since the Department of Revenue will subtract this fee from the state tax intercept amount.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition and employment.

Ann S. Williamson
Assistant Secretary
0111#066

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

**Temporary Assistance for Needy Families
(TANF) Initiatives (LAC 67:III.5505-5547)**

The Department of Social Services, Office of Family Support, proposes to amend LAC 67:III, Subpart 15, by adopting §§5505 through 5547.

Pursuant to Act 12 of the 2001 Regular Session of the Louisiana Legislature, the Office of Family Support will provide funding to various departments of the state of Louisiana and other entities for a variety of programs intended to further the goals and intentions of the federal Temporary Assistance for Needy Families (TANF) Block Grant. All programs have been effected by several Declarations of Emergency. Section 5505 was effected by an Emergency Rule signed August 20, 2001; §§5507 through 5531 were effected August 30, 2001; §§5533 through 5545 were effected September 25, 2001; and §5547 was effected September 28, 2001.

Title 67
SOCIAL SERVICES

Part III. Office of Family Support

**Subpart 15. Temporary Assistance to Needy Families
(TANF) Initiatives**

Chapter 55. TANF Initiatives

**§5505. Nonpublic School Early Childhood Development
Program**

A. OFS shall enter into a Memorandum of Understanding with the Governor's Office, Office of Community Programs, to provide early childhood education to certain four-year-olds in non-public schools.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families by placing children in learning environments at the pre-school level to foster an interest in learning, increase literacy levels, and increase the likelihood of developing responsible behavior.

C. Eligibility for services is limited to at-risk families in which the child is one year younger than the eligible age for public school kindergarten and is eligible to receive free or reduced school lunch meals pursuant to the Federal Child Nutrition Program as documented by a completed application for such meals, whether or not such meals are sought.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

**§5507. Adult Education, Basic Skills Training, Job
Skills Training, and Retention Services Program**

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Workforce Commission to provide adult education, basic skills training, jobs skills training, and retention services to low income families. Employed participants will be provided child care and transportation services. Unemployed participants will be provided short-term child care and transportation services.

B. These services meet the TANF goal to end the dependence of needy parents on government benefits by providing education, training, and employment-related services to low income families in order to promote job preparation, work, and marriage.

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), Supplemental Security Income (SSI) or Free or Reduced School Lunch, or to a family which has earned income at or below 200 percent of the federal poverty level. Families who lose FITAP eligibility because of earned income are considered needy for a period of one year following the loss of cash assistance. Within the needy family, only the parent is eligible to participate.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5509. Domestic Violence Services

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Office of Women's Services to provide for services pertaining to domestic violence including rural outreach, services to children in shelters, and training of law enforcement and DSS personnel.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families.

C. Eligibility for services is not limited to needy families. Eligibility for services is limited to children and/or their parents or caretaker relatives who are victims of domestic violence.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5511. Micro-Enterprise Development

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Office of Women's Services to provide assistance to low-income families who wish to start their own businesses.

B. These services meet the TANF goal to end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage. This goal will be accomplished by providing assistance to low-income families through the development of comprehensive micro-enterprise development opportunities as a strategy for moving parents into self-sufficiency.

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), Supplemental Security Insurance (SSI) or Free or Reduced School Lunch. Only the parent within the needy family is eligible to participate.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5513. Project Return

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Department of Public Safety and Corrections to fund transitional services to former offenders.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families by reducing the rate of recidivism. This goal will be accomplished by providing nonmedical substance abuse treatment and counseling, GED and academic enhancement, training in conflict resolution and communication skills, job training, and job placement assistance.

C. Eligibility for services is limited to parents or caretaker relatives of minor children.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5515. Job Skills Program

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Department of Public Safety and Corrections to fund services to enhance basic academic skills of state adult inmates through the Job Skills and Education Program, a computer-based instructional system.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families by promoting responsible parenthood. This goal will be accomplished by increasing the inmate's wage-earning capacity, improving decision-making skills and ability to cope with change.

C. Eligibility for services is limited to parents of minor children.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5517. Project Metamorphosis

A. OFS shall enter into a Memorandum of Understanding with the Department of Public Safety and Corrections to provide inmates who are within 12 to 18 months of their release date with basic educational/vocational instruction, life skills instruction, and job placement counseling and preparation.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families by increasing post-release employment and wage rates leading to the successful integration of released inmates back into their families and communities.

C. Eligibility for services is limited to parents of minor children.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5519. Concordia Correctional Life Skills Pre-Release Program at the Concordia Parish Detention Facility

A. OFS shall enter into a Memorandum of Understanding with the Department of Public Safety and Corrections to provide Concordia Parish Correctional Facility inmates who are within 12 to 18 months of their release date with basic educational/vocational instruction, life skills instruction, and job placement counseling and preparation.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families by increasing post-release employment and wage rates leading to the successful integration of released inmates back into their families and communities.

C. Eligibility for services is limited to parents of minor children.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5521. Women and Children's Residential Prevention and Treatment Program

A. OFS shall enter into a Memorandum of Understanding with the Office of Addictive Disorders for a substance abuse prevention and nonmedical treatment program for women with children.

B. These services meet the TANF goal to end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage by providing needy families with nonmedical drug abuse treatment so they may become self-sufficient.

C. Eligibility for services is limited to needy families, that is, a family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), Supplemental Security Income (SSI) or Free or Reduced School Lunch.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5523. Early Childhood Development Program

A. OFS shall enter into a Memorandum of Understanding with the Department of Education to provide early childhood education to four-year-olds.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families by giving parents of these children an opportunity earlier in the children's lives to become active partners in their education and increase their own literacy level by participating with their children in school programs and also meet the TANF goal to prevent and reduce the incidence of out-of-wedlock births.

C. Eligibility for services is limited to at-risk families in which the child is one year younger than the eligible age for kindergarten and is eligible to receive free or reduced school lunch meals pursuant to the Federal Child Nutrition Program as documented by a completed application for such meals, whether or not such meals are sought.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5525. Pre-GED/Skills Option Program

A. OFS shall enter into a Memorandum of Understanding with the Department of Education for adult education, pre-GED, skills options, and other dropout prevention programs.

B. These services meet the TANF goal to prevent and reduce the incidence of out-of-wedlock births by providing intervention and improved life prospects for students.

C. Eligibility for services is not limited to needy families.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5527. Program Evaluation, Comprehensive Needs Assessment, and Training

A. OFS shall enter into an Memorandum of Understanding with the Division of Administration to evaluate the TANF initiatives and to conduct a comprehensive needs assessment and training regarding policy and service-delivery deficiencies.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5529. Youth in Transition

A. OFS shall enter into a Memorandum of Understanding with the Office of Community Services to provide services to youth who are ageing out of Foster Care.

B. These services meet the TANF goals to encourage the formation and maintenance of two-parent families and to prevent and reduce out-of-wedlock births.

C. Eligibility for services is not limited to needy families.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5531. After-School Tutorial

A. OFS shall enter into a Memorandum of Understanding with the Department of Education to provide after-school tutorial services.

B. These services meet the TANF goal to prevent and reduce the incidence of out-of-wedlock births by providing intervention and improved life prospects for students.

C. Eligibility for services is not limited to needy families.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5533. Transportation Services

A. The Office of Family Support shall make funding available for transportation of employed participants in TANF initiatives administered through other agencies as well as short-term transportation services for some unemployed participants.

B. These services meet the TANF goal to end the dependence on government benefits by promoting job preparation, work, and marriage.

C. Services may or may not be limited to needy families depending on which program the participant is involved in.

D. Services are considered non-assistance.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5535. Fatherhood

A. Act 639 of the 2001 Regular Session of the Louisiana Legislature created the Fatherhood Council to develop a plan to promote and monitor fatherhood initiatives. Funding and services may be provided in accordance with the plan developed by the Fatherhood Council.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families by providing programs that promote responsible parenting and increase the capacity of fathers to provide emotional and financial support for their children.

C. Eligibility for services is limited to fathers of minor children.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; Acts 12 and 639, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5537. Education and Training

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Department of Education to provide structured after-school programs to help children improve academic performance and to provide literacy and basic education services to adults in need of these services. The Department of Education will implement this program through cooperative endeavor agreements with entities in local communities.

B. These services meet the TANF goals to prevent and reduce the incidence of out-of-wedlock births by providing supervised, safe environments for children thus limiting the opportunities for engaging in risky behaviors, and to encourage the formation and maintenance of two-parent families by providing educational services that enhance a parent's ability to financially and emotionally provide for their children.

C. Eligibility for after-school programs is not limited to needy families. Eligibility for adult education services is limited to parents, legal guardians, and caretaker relatives of minor children.

D. The services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5539. Truancy Assessment and Service Centers

A. OFS shall enter into a Memorandum of Understanding with the Supreme Court Of Louisiana for Truancy Assessment and Service Centers designed to identify, assess, and intervene to ensure that children in kindergarten through sixth grade attend school regularly.

B. These services meet the TANF goal to prevent and reduce the incidence of out-of-wedlock births by providing counseling to children and family members designed to assure regular school attendance and improved academic and behavioral outcomes.

C. Eligibility for services is not limited to needy families.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5541. Court-Appointed Special Advocates

A. OFS shall enter into a Memorandum of Understanding with the Supreme Court Of Louisiana to provide services to needy children identified as abused or neglected who are at risk of being placed in foster care or, are already in foster care. Community advocates provide information gathering and reporting, determination of and advocacy for the children's best interests, and case monitoring to provide for the safe and stable maintenance of the children or return to their own home.

B. The services meet the TANF goal to provide assistance to needy families so that children may be cared for in their own homes or in the home of relatives by ensuring that the time children spend in foster care is minimized.

C. Eligibility for services is limited to needy families, that is, one in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP) benefits, Supplemental Security Income (SSI), or Free or Reduced School Lunch.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5543. Drug Courts Program

A. OFS shall enter into a Memorandum of Understanding with the Supreme Court Of Louisiana to provide services to drug court clients that may include nonmedical treatment, assessment, counseling, education, and training. Eligible services shall not include drug court administrative costs.

B. These services meet the TANF goal to prevent and reduce the incidence of out-of-wedlock births and to encourage the formation and maintenance of two-parent families.

C. Eligibility for services is limited to children and to the parents or caretaker relatives of minor children.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5545. Remediation and Tutoring Programs

A. OFS shall enter into a Memorandum of Understanding with the Department of Education, Office of Student and School Performance, to establish programs designed to increase the likelihood of a student scoring above the "unsatisfactory" achievement level on the Graduate Exit Exam and the LEAP 21 exam and include:

1. Graduate Exit Exam Summer RemediationCdesigned to provide additional remedial instruction to targeted students, that is, students who scored "unsatisfactory" on the English language arts and/or mathematics components of the Graduate Exit Exam;

2. Louisiana Education Assessment Program (LEAP) 21 Summer RemediationCdesigned to provide additional remedial instruction to targeted students, that is, fourth and eighth grade students who did not take the spring LEAP 21 test and fourth and eighth grade students who scored "unsatisfactory" on the English language arts and/or mathematics components of the LEAP 21; and

3. Louisiana Education Assessment Program (LEAP) 21 TutoringCdesigned to provide intense early intervention and remedial instruction to targeted students in an effort to increase the likelihood of them scoring above the "unsatisfactory" level on the LEAP 21. The targeted group includes fourth and eighth grade students who have been retained because of their having scored at the "unsatisfactory" level on the English language arts and/or mathematics components of the LEAP 21 tests, and fourth and eighth grade students whose third and seventh grade IOWA test scores were below the thirtieth percentile and are considered to be at risk of scoring at the "unsatisfactory" level on the English language arts and/or mathematics components of the LEAP 21 tests.

B. These services meet the TANF goal to prevent and reduce the incidence of out-of-wedlock births by encouraging youths to remain in school, reducing their risk of engaging in negative behavior and increasing opportunities for families to become self-sufficient through education and training.

C. Eligibility for services is limited to families which include a minor child living with a custodial parent, an adult caretaker relative or a legal guardian. A family in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), Supplemental Security Income (SSI), or Free or Reduced School Lunch is eligible.

D. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

§5547. Housing Services

A. The Department of Social Services, Office of Family Support, may enter into Memoranda of Understanding or contracts to create pilot programs that provide transitional, short-term, or one-time housing services to needy families with minor children who participate in self-sufficiency activities, who are at risk of losing existing housing arrangements, who are in an emergency situation, or who face ineligibility because of increased earnings. These services can include but are not limited to: relocation assistance; costs associated with moving or relocation; down payment of deposit and/or initial month's rent; short-term continuation of a housing voucher; down payment for the purchase of a house; housing counseling and homebuyer education for prospective homeowners; or other transitional

services determined in conjunction with the Department of Social Services and the Division of Administration.

B. These services meet the TANF goal to provide assistance to needy families so that children can be cared for in their own homes or the homes of relatives and the TANF goal to end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage.

C. Eligibility for services is limited to parents, legal guardians, or caretaker relatives of minor children who are members of a needy family. A needy family is one in which any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamp benefits, Child Care Assistance Program (CCAP) services, Title IV-E, Medicaid, Louisiana Children's Health Insurance Program (LaChip) benefits, Supplemental Security Income (SSI), Free and Reduced Lunch, or Housing and Urban Development (HUD) funded services.

D. Services are considered non-assis tance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:

Family Impact Statement

1. What effect will this rule have on the stability of the family? Family stability is the ultimate intent of all initiatives as described in Subsection B of each section.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? Many of the TANF Initiatives aim to improve the parents' ability to educate and supervise their children.

3. What effect will this have on the functioning of the family? The initiatives aim to effect immediate and long-term improvement of the functioning of the family unit.

4. What effect will this have on family earnings and family budget? Many of these actions have a long-term goal to improve family earnings and are free of cost to the families.

5. What effect will this have on the behavior and personal responsibility of children? Improvement in behavior and personal responsibility is a primary goal of these efforts.

6. Is the family or local government able to perform the function as contained in this proposed rule? The TANF Initiatives are specifically for a family that is considered to be functionally at-risk, and TANF funds to promote the formation and maintenance of two-parent families are specifically administered by state government.

All interested persons may submit written comments through December 28, 2001, to Ann S. Williamson, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, Louisiana, 70804-9065.

A public hearing on the proposed rule will be held on December 28, 2001, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, Louisiana, beginning 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 Area Code 225-342-4120 (Voice and TDD).

Gwendolyn P. Hamilton
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Temporary Assistance for Needy Families (TANF) Initiatives

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

Implementation costs in FY 01/02 for the Temporary Assistance For Needy Families (TANF) Initiatives are estimated to be \$79,588,000 including \$100,000 for two new positions in the Office of Family Support. The agency will enter into Memoranda of Understanding with state agencies and other entities to provide services for the various programs, and funds for these services will be allocated from the TANF Block Grant to the specified departments/entities. The additional costs for administrative planning, payment allocation, preparation and printing of rulemaking, and other related information are expected to be within the agency's current budget. Future expenditures are subject to legislative appropriation.

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

Through interagency transfers, the state agencies and other entities detailed in the Notice of Intent will receive increased revenues totaling \$79,488,000 to be expended in the provision of services. There is no effect on revenue collection of local governmental units.

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

There is no immediate cost or economic benefit to any persons or nongovernmental groups. However, the majority of these programs offer long-term goals to improve the economic situation of targeted families.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Any new positions associated with the initiatives will be at the discretion of the various TANF partners and will be subject to the same terms of availability and appropriation of TANF funds.

Ann S. Williamson
Assistant Secretary
0111#065

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Transportation and Development Office of Weights, Measures and Standards

Violation Ticket Review Committee
(LAC 73:I.Chapter 12)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Transportation and Development intends to amend Chapter 12 of Title 73 entitled "Violation Ticket Review Committee," in

accordance with R.S. 32:389, as amended by Act 1201 of the 2001 Regular Session of the Louisiana Legislature.

Title 73

WEIGHTS, MEASURES, AND STANDARDS

Part I. Weights and Standards

Chapter 12. Violation Ticket Review Committee

§1201. Composition of Violation Ticket Review Committee

A. One representative of the DOTD Maintenance Section.

B. One representative of the DOTD Legal Section.

C. One designee of the Chief Engineer or the Chief, Maintenance Division.

D. The chairman of the committee is the Chief, Maintenance Division, or his designee.

E. The DOTD Weights and Standards Administrator or his designee shall be a non-voting member.

F. Three of four voting members present is a quorum.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389(D).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:372 (May 1996) amended LR 28:

§1203. Tickets Subject to Review

A. All tickets recognized to contain mathematical error or obvious legal error; or

B. All tickets formally protested (in writing).

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389(D).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:

§1205. Time Limitations

A. Payment of the fine imposed by a violation ticket is due within 30 days from the date of issuance of the ticket.

B. To receive consideration, a violation ticket must be formally protested within 30 days from the date of issuance of the ticket.

C. The Violation Ticket Review Committee must dispense with tickets within 30 working days from receipt of the request for review.

D. The DOTD Weights and Standards Administrator must report to the protestor within seven working days from the committee's decision. Said report shall fully inform the protestor of the decision of the committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389(D).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:

§1207. Duties of the DOTD Weights and Standards

Administrator

A. Receive and assemble all formally protested violation tickets for review.

B. Investigate the circumstances, claims or allegations surrounding all violation tickets formally submitted for review.

C. Communicate with the protestor during the process and after the decision of the committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389.D.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:

§1209. Authorized Action

A. The Violation Ticket Review Committee is authorized to void or reduce violation tickets, or leave violation tickets intact.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389.D.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:

§1211. Rights of Protesting Party

A. These rules do not impair the right of the protesting party to sue the department to recover payment of the violation ticket as provided in R.S. 32:389.

B. The protesting party will not be afforded the opportunity to personally appear before the Violation Ticket Review Committee, except as provided for in §1215 below. Only his written statement will be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389.D.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:

§1213. Prescription

A. The running of prescription for collection of unpaid violation tickets is not interrupted by filing of the protest.

B. The running of prescription for suing the department to recover monies paid for a violation ticket is not interrupted by filing of the protest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389.D.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:

§1215. Reconsideration by Violation Ticket Review Committee

A. The decision of the Violation Ticket Review Committee may be reconsidered, either upon request of the protestor or upon motion of a member of the Violation Ticket Review Committee. Such request must be made within 30 days of the date of the notice of the decision of the first hearing. Additional information must be provided at second review. Should the protestor request that he be allowed to personally appear before the committee, he may be allowed by the Committee to do so at the hearing on reconsideration.

B. Following conclusion of the committee's final review and within 30 days of the issuance of the report required by Paragraph A of §1205, the department shall notify the protestor of his right to appeal to the Review Panel established by Act 1201 of the 2001 Regular Session of the Louisiana Legislature.

§1216. Consideration by Review Panel

A. The protesting party may request in writing a review conducted by the Review Panel comprised of five members appointed as follows:

1. one member of the Review Panel shall be appointed by the secretary of the Department of Transportation and Development;

2. two members shall be appointed by the Louisiana Motor Transport Association;

3. one member shall be appointed by the Chairman of the House Committee on Transportation, Highways and Public Works; and

4. one member shall be appointed by the Chairman of the Senate Committee on Transportation, Highways and Public Works.

B. The members of the Review Panel shall select a Chairman by majority vote.

C. The Protestor must make his written request for review within 30 days of his notification of final decision by the Violation Ticket Review Committee. The Protestor must include in his correspondence a request for personal appearance.

D. The review panel shall be convened upon the motion of the chairman a minimum of every 60 days. The department shall provide all information necessary or required concerning the tickets reviewed by the Review Panel. The protestor, upon his request, may appear at the meetings of the Review Panel.

E. The Review Panel is authorized to void or reduce violation tickets, or leave violation tickets intact. The decision of the Review Panel shall be binding upon the Department and shall supersede the decision of the Violation Ticket Review Committee.

F. A majority of the Review Panel constitutes a quorum and a majority vote of the Review Panel is needed to effect a decision.

G. The Protestor shall be notified of the final decision of the Review Panel within seven days from the date of the meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389.D.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:

§1217. Record-Keeping

All actions of the Violation Ticket Review Committee and the Review Panel which require monetary adjustment of Violation Tickets shall be recorded on computer and reported to the DOTD Financial Services Section. All records shall be maintained in accordance with the Public Records Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389.D.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:

All interested persons so desiring shall submit oral or written data, views, comments or arguments no later than 30 days from the date of publication of this Notice of Intent. Such comments should be submitted to Denny Silvio, Weights and Standards Administrator, P.O. Box 94042, Baton Rouge, LA 70804-9052, (504) 377-7100.

Kam K. Movassaghi, P.E., Ph.D
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Violation Ticket Review Committee

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

There should be no implementation costs or savings to state or local governmental units other than those opportunity costs necessary to conduct another tier of review. The department currently conducts a review process. The proposed rulemaking simply adds another tier to the process which will be conducted by state employees and representatives of the Louisiana Motor Vehicle Transport Association who will perform these duties as part of their current jobs.

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

There should be little or no effect on revenue collections of state or local governmental units. The new panel, legislatively created, has the authority to void or reduce violation tickets. Such action would have a negative impact on revenue collections of state or local governmental units. The amount of this possible impact cannot be estimated at this time.

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

The trucking industry should benefit from the rulemaking which implements an additional tier to the review process which currently exists. The affected members of the industry will have another "cost-free" opportunity to appeal their violation tickets to the review panel. The amount of this benefit cannot be estimated at this time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect on competition or employment.

Kam K. Movassaghi, Ph.D, P.E.
Secretary

0111#059

Robert E. Hosse
General Government
Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Oyster Harvest Area Grid System (LAC 76:VII.519)

The Wildlife and Fisheries Commission does hereby give notice to establish an oyster harvest area grid system. This is being done under the authority of R.S. 56:430.1.

The text of this proposed rule may be viewed in its entirety in the Emergency Rule section of this issue of the *Louisiana Register*.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of

intent and the final rule, including but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit comments relative to the proposed Rule to Karen Foote, Marine Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to Monday, January 7, 2002.

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Dr. H. Jerry Stone
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Oyster Harvest Area Grid System

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
No implementation costs or savings to state or local governmental units is anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effects to state or local governmental revenue collections are anticipated.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
No estimated costs or economic benefits affecting persons or nongovernmental groups are anticipated as a result of the promulgation of the oyster harvest area grid system.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effects on competition or employment are anticipated.

James L. Patton
Undersecretary
0111#043

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

Administrative Code Update

CUMULATIVE: JANUARY – OCTOBER 2001

LAC Title	Part.Section	Effect	Location LR 27 Month Page	LAC Title	Part.Section	Effect	Location LR 27 Month Page	
4	I.Chapter 1	Amended	Oct. 1688	28	V.109	Amended	Jan. 35	
	I.Chapter 7	Adopted	Apr. 524		V.113	Amended	Aug. 1218	
	VI.1720-1731	Adopted	Apr. 528		VI.107,307	Amended	Aug. 1221	
	VI.1731-1735	Repealed	Apr. 528		VI.107,307,311	Amended	Jan. 37	
	VII.Chapter 7	Repealed	Oct. 1689		VI.209	Amended	Feb. 190	
	VII.1199	Amended	Jan. 50		VI.209	Amended	Aug. 1221	
	VII.1245	Adopted	Sept. 1518		VI.315	Amended	Aug. 1221	
7	XV.Chapter 1	Amended	Aug. 1175		XXI.301-305,311,503,507,515	Amended	Oct. 1684	
	XV.327	Adopted	Mar. 280		XXV.303	Amended	Feb. 187	
	XXI.143,147	Amended	Mar. 279		XLI.503,903,1105	Amended	Oct. 1684	
	XXI.Chapter 3	Amended	Feb. 182		XLIII.130,1431,1441,1449,2001	Amended	Jan. 34	
	XXI.305	Repealed	Feb. 182		XXXIX.305,307	Amended	Sept. 1517	
	XXI.307-311	Amended	Feb. 182		XXXIX.503 and 1301	Amended	July 1006	
	XXIII.143	Amended	Oct. 1672		XXXIX.503,505,509,513	Amended	Oct. 1682	
	XXV.119,141	Amended	Aug. 1179		XXXIX.519,1301	Amended	Oct. 1682	
	XXVII.128	Amended	June 815		XXXIX.507	Repealed	Oct. 1682	
	XXIX.Chapter 15	Adopted	Jan. 31		32	III.101	Amended	May 721
	XXXI.1501,1503,1507	Amended	July 1005			III.317,323	Amended	May 720
	XXXV.135	Adopted	Oct. 1672			III.321,701	Amended	May 722
	10	XI.501	Repealed			Sept. 1512	III.323,601,701	Amended
XI.501		Repromulgated	Oct. 1690			III.701	Amended	May 719
XII.101-113		Adopted	May 688			III.701	Amended	May 720
XVII.701		Adopted	Sept. 1512			V.101	Amended	May 718
XVII.701		Repromulgated	Oct. 1690			V.325,601,701	Amended	May 718
22	I.341-365	Adopted	Mar. 413			V.701	Amended	May 716
	I.Chapter 23	Adopted	Mar. 409			V.317,325	Amended	May 717
	III.4703	Amended	Jan. 49		33	I.3917	Repromulgated	Jan. 38
25	IX.303-331,501-507	Amended	Oct. 1673			III.223	Repromulgated	Feb. 192
	28	I.103	Amended			Mar. 283	III.2131	Amended
I.307		Amended	July 1012			III.2156,2157,2158,2159,2160	Amended	Aug. 1223
I.901		Amended	Jan. 32			III.2707,2721	Amended	Aug. 1222
I.901		Amended	Feb. 184			III.2811	Repromulgated	Jan. 38
I.901		Amended	Feb. 185			V.Chapters 1,3,9,11,13,15,22,30	Amended	May 706
I.901		Amended	Feb. 185			V.101	Amended	June 857
I.901		Amended	Feb. 187	V.105,109,110,322,529,535,537		Amended	Mar. 290	
I.901		Amended	Feb. 187	V.108,1109,5137		Amended	May 715	
I.901		Amended	Feb. 187	V.Chapter 4		Adopted	Mar. 284	
I.901		Amended	May 694	V.517,5111		Amended	Mar. 284	
I.901		Amended	May 695	V.903,915,917,919		Repealed	Jan. 41	
I.901		Amended	May 694	V.905,907,913,1107,1111	Amended	Jan. 41		
I.901		Amended	June 815	V.905,1109,1127,1531,1705	Amended	Mar. 290		
I.901		Amended	July 1005	V.1109,2231	Amended	July 1014		
I.901		Amended	Aug. 1181	V.1309	Repromulgated	Jan. 41		
I.901		Amended	Aug. 1182	V.2214,2245,3001,3003	Amended	Mar. 290		
I.901		Amended	Sept. 1512	V.3011,3025,3105,3115,3203	Amended	Mar. 290		
I.901		Amended	Oct. 1674	V.3011,3025	Repromulgated	Apr. 513		
I.901		Amended	Aug. 1181	V.Chapters 38,40,41,43,49	Amended	May 706		
I.903		Amended	Mar. 281	V.3801	Repromulgated	Sept. 1518		
I.903	Amended	Mar. 282	V.3809,3813,3821,3823,3843	Amended	Mar. 290			
I.903	Amended	June 820	V.3845,4513,4901,4909	Amended	Mar. 290			
I.903	Amended	June 821	V.Chapter 39	Repealed	May 706			
I.903	Amended	June 821	V.Chapter 301	Amended	Sept. 1522			
I.903	Amended	June 825	V.30114,30147,30191,30248	Adopted	Sept. 1522			
I.903	Amended	June 827	V.30250,30264,30296,30299	Adopted	Sept. 1522			
I.903	Amended	Aug. 1189	V.30301,30303,30305,30307	Adopted	Sept. 1522			
I.903	Amended	Aug. 1190	V.Chapter 304	Adopted	Sept. 1522			
I.903	Amended	Sept. 1516	VI.Chapter 9	Adopted	Apr. 514			
I.903	Amended	Oct. 1676	VII.Chapter 105	Amended	June 829			
I.903	Amended	Oct. 1680	VII.303,305,701,711-717,721,723	Repromulgated	May 703			
I.903	Amended	June 828	VII.725,1109	Repromulgated	May 705			
I.917	Amended	Aug. 1192	VII.727,1109	Repromulgated	Jan. 38			
IV.301,509,703,803,2103	Amended	Jan. 36	IX.1113,1123	Amended	Mar. 288			
IV.301,509,903	Amended	Mar. 284	IX.2331,2381,2383,2385,2769	Amended	Jan. 45			
IV.301,703	Amended	Aug. 1219	IX.2341	Repromulgated	Jan. 38			
IV.703	Amended	May 702	IX.2609	Amended	Feb. 191			
IV.703,803,903,1103,2303	Amended	Aug. 1219	IX.2801-2809	Adopted	Jan. 45			
IV.2113	Adopted	Aug. 1219	XI.103,1121	Amended	Apr. 520			
			XI.Chapter 12	Adopted	Apr. 520			
			XV.Chapters 1,3,4,5,6,7,13,15	Amended	Aug. 1225			

LAC Title	Part.Section	Effect	Location LR 27 Month Page	LAC Title	Part.Section	Effect	Location LR 27 Month Page
34	VII.307	Repromulgated	Jan. 49	48	V.7707-7719	Repromulgated	Oct. 1691
35	XIII.Chapter 120	Adopted	May 689		V.Chapter 119	Adopted	Mar. 308
37	XI.703-731	Amended	Apr. 561		IX.107	Amended	June 854
37	XIII.Chapter 99	Adopted	Apr. 548	51	I.Chapter 1	Adopted	Oct. 1693
40	I.5157	Amended	Mar. 314	55	I.2101	Adopted	Feb. 205
42	VII.2901	Amended	Jan. 58		I.Chapter 23	Adopted	Feb. 205
	VII.2933	Amended	Feb. 204		I.2323	Adopted	Mar. 424
	VII.2953,3305	Amended	Sept. 1555		I.Chapter 25	Amended	Sept. 1580
	VII.2954,3304	Adopted	Sept. 1555		I.Chapter 27	Repromulgated	Oct. 1701
	IX.2901	Amended	Jan. 58		III.Chapter 1	Adopted	Jan. 62
	IX.2922,2923,3305	Amended	Sept. 1555		V.103	Amended	June 857
	IX.2924	Repealed	Sept. 1555		IX.121	Amended	Mar. 422
	IX.2939	Amended	Feb. 204		IX.1501,1513,1519,1531	Amended	Mar. 423
	IX.3304	Adopted	Sept. 1555		IX.1507,1513	Repromulgated	Apr. 565
	XI.2405	Amended	Jan. 61	58	I.Chapter 25	Amended	Sept. 1580
	XI.2407	Amended	Feb. 204		III.1501	Adopted	May 737
	XI.2417	Amended	Jan. 59	61	I.902	Adopted	Oct. 1705
	XI.2901	Amended	Jan. 58		I.4301	Amended	Oct. 1703
	XIII.2901	Amended	Jan. 60		I.4905	Amended	July 1017
	XIII.2933	Amended	Feb. 204		I.4911	Adopted	Aug. 1241
	XIII.2953,3305	Amended	Sept. 1555		III.101	Adopted	Feb. 207
	XIII.2954,3304	Adopted	Sept. 1555		III.1503	Amended	Mar. 428
43	XIII.Chapters 1-29	Amended	Sept. 1535		III.1505	Repealed	Mar. 428
	XIII.502,1933	Adopted	Sept. 1535		III.2005,2007	Amended	July 1017
	XIII.Chapter 30	Adopted	Sept. 1535		III.2101	Amended	June 866
	XVII.101,105,107,109	Amended	Oct. 1697		III.5383	Adopted	Mar. 428
46	I.901	Amended	Oct. 1687		III.Chapter 54	Adopted	July 1018
	I.1121	Adopted	Oct. 1686		V.309,703,907,1103,1307,1503	Amended	Mar. 424
	I.1123	Adopted	Oct. 1686		V.2503,2705,2707	Amended	Mar. 424
	I.1505	Amended	Mar. 280	67	III.517	Amended	Sept. 1561
	XXI.Chapter 3	Amended	Feb. 183		III.1235	Amended	May 736
	XXXV.103,105,903,905,1303	Amended	Feb. 193		III.1235	Amended	June 866
	XXXV.1401-1409,1503	Amended	Feb. 193		III.1503	Amended	Mar. 428
	XLV.Chapters 3 and 4	Amended	June 835		III.1505	Repealed	Mar. 428
	XLV.326, 345, 373, 375	Repealed	June 835		III.1947, 1949, 1983, 1987	Amended	June 867
	XLV.359, 401, 418	Repromulgated	June 835		III.5205	Amended	Sept. 1559
	XLV.377, 409, and Chapter 11	Repealed	June 835		III.5383	Adopted	Mar. 428
	XLVII.3331	Amended	Feb. 202		III.2013, 2015	Amended	June 867
	XLVII.3335	Amended	May 729		III.2529,2531	Amended	Jan. 81
	XLVII.3419	Amended	May 727		III.Chapter 52	Adopted	Mar. 429
	XLVII.Chapter 35	Amended	June 851		V.3503	Amended	May 735
	XLVII.Chapter 45	Amended	May 723		VII.109	Amended	Feb. 210
	LVII.103,105,509,515,518,721	Amended	Apr. 563		VII.115	Amended	Sept. 1561
	LVII.501	Amended	Aug. 1240		LXI.101-105,701-725, 901-909	Amended	July 1019
	LVII.512	Amended	July 1016		LXI.301-311, 501-509	Repealed	July 1019
	LVII.518	Amended	July 1016		LXI.1101-1105, 1301-1315	Amended	July 1019
	LVII.915	Amended	Apr. 563		LXI.1501-1527, 1701,1703	Amended	July 1019
	LIX.301,405	Amended	Aug. 1241		LXI.1901-1911, 2101, 2103	Amended	July 1019
	LIX.703	Amended	May 735		LXI.2301-2309, 2501-2511	Amended	July 1019
	LXIII.201	Adopted	May 723		LXI.2701, 2901-2907	Amended	July 1019
	LXIII.503	Amended	June 835		LXI.2901-2907, 3101-3121, 3301	Amended	July 1019
	LXXXVI.Chapter 1	Repromulgated	May 732	71	I.Chapter 9	Adopted	May 736
	LXXXV.Chapters 1-7	Amended	Feb. 196		III.301,1301	Amended	Oct. 1706
	LXXXV.107,111,121	Repromulgated	Oct. 1690		III.1901	Adopted	Oct. 1706
	LXXXV.700,705	Amended	Jan. 51	76	I.327	Amended	Aug. 1243
	LXXXV.700, 1101-1123	Amended	Apr. 543		III.333	Adopted	June 868
	LXXXV.1039	Amended	Aug. 1238		V.101	Repealed	Feb. 214
48	I.Chapter 79	Adopted	Sept. 1564		V.319	Adopted	July 1062
	I.9704	Adopted	Mar. 311		V.501	Adopted	Feb. 214
	I.Chapter 171	Amended	Mar. 312		VII.407	Amended	Feb. 215
	V.6303	Amended	Apr. 545		VII.517	Adopted	Feb. 214
	V.7001-7007	Amended	Jan. 52		VII.517	Repromulgated	Mar. 431
	V.7707-7719	Amended	Sept. 1520		XIX.101,103	Amended	July 1061
					XIX.111	Amended	July 1049

Potpourri

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Retail Floristry Examination

The next retail floristry examinations will be given January 21-25, 2002, 9:30 a.m. at the 4-H Mini Farm Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending in application and fee is December 7, 2001. No applications will be accepted after December 7, 2001.

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3596, Baton Rouge, LA 70821-3596, phone (225) 952-8100.

Any individual requesting special accommodations due to a disability should notify the office prior to December 7, 2001. Questions may be directed to (225) 952-8100.

Bob Odom
Commissioner

0111#023

POTPOURRI

Department of Agriculture and Forestry Office of Forestry and Department of Revenue Tax Commission

Timber Stumpage Values

The Louisiana Forestry Commission and the Louisiana Tax Commission will meet and jointly adopt current average timber market values for 2002 on December 10, 2001, which is the second Monday in December as required by the provisions of R.S. 47:633. The meeting will begin at 10 a.m. and be held at the headquarters of the Louisiana Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, Louisiana.

The valuations adopted by these commissions shall take effect on January 1, 2002 and continue through December 31, 2002.

The Louisiana Department of Agriculture and Forestry, Office of Forestry has compiled the following data and developed the following recommendations for the determination of the current average stumpage market value of trees and timber and of pulpwood for calendar year 2002.

Trees and Timber	Price/Scale	Price/Ton
Pine Sawtimber	\$343.55/MBF	\$42.94/Ton
Hardwood Sawtimber	\$246.47/MBF	\$25.94/Ton
Pine Chip and Saw	\$96.23/CD	\$35.64/Ton
Pulpwood		
Pine Pulpwood	\$21.64/CD	\$8.01/Ton
Hardwood Pulpwood	\$11.79/CD	\$4.14/Ton

Third Quarter 2000 (July-September)			
Product	Stump Vol (Tons)	Stump Val (\$)	Stmp Avg (\$/Ton)
Pine Sawtimber	561,664.54	\$25,186,289.33	\$44.84
Hardwood Sawtimber	226,612.81	5,238,764.04	23.12
Pine Pulpwood	450,825.72	3,753,922.86	8.33
Hardwood Pulpwood	439,049.40	1,519,023.76	3.46
Chip-N-Saw	44,636.24	1,643,566.57	36.82

Fourth Quarter 2000 (October-December)			
Product	Stump Vol (Tons)	Stump Val (\$)	Stmp Avg (\$/Ton)
Pine Sawtimber	462,634.43	\$19,849,109.09	\$42.90
Hardwood Sawtimber	160,625.53	4,423,041.11	27.54
Pine Pulpwood	386,087.34	3,063,739.98	7.94
Hardwood Pulpwood	272,029.22	1,027,512.86	3.78
Chip-N-Saw	36,700.05	1,205,545.56	32.85

First Quarter 2001 (January - March)			
Product	Stump Vol (Tons)	Stump Val (\$)	Stmp Avg (\$/Ton)
Pine Sawtimber	282,905.67	\$11,604,309.85	\$41.02
Hardwood Sawtimber	59,912.13	1,606,475.44	26.81
Pine Pulpwood	320,400.55	2,610,491.89	8.15
Hardwood Pulpwood	85,738.57	381,246.15	4.45
Chip-N-Saw	19,902.24	749,746.18	37.67

Second Quarter 2001 (April-June)			
Product	Stump Vol (Tons)	Stump Val (\$)	Stmp Avg (\$/Ton)
Pine Sawtimber	362,086.70	\$15,045,531.51	\$41.55
Hardwood Sawtimber	169,198.00	4,722,631.61	27.91
Pine Pulpwood	372,239.87	2,829,084.26	7.60
Hardwood Pulpwood	228,753.26	1,313,928.95	5.74
Chip-N-Saw	18,854.75	681,301.72	36.13

Conversion Factors			
MBF Pine Doyle Scale	= 16,000	=	8.00 Tons
MBF Hardwood Doyle Scale	= 19,000	=	9.50 Tons
Cord Pine	= 5,400 lbs	=	2.70 Tons
Cord Hardwood	= 5,700 lbs	=	2.85 Tons
Chip-N-Saw	= 5,400 lbs	=	2.70 Tons

Bob Odom
Commissioner

0111#049

POTPOURRI

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

Petition for Rulemaking for Approval of
ASTM D 6450-99 for Flash Point Testing

In accordance with LAC 33:I.909, the Louisiana Department of Environmental Quality hereby gives notice of the denial of a petition for rulemaking by Petrolab Co. to add the Grabner Miniflash Continuously Closed Cup Flash Point Tester (ASTM D 6450-99) as an RCRA-approved method for determining the flash point of flammable liquids.

The department denied the petition taking into account information from EPA that indicates the agency is studying the method for possible inclusion into RCRA methods for flash point testing. This could result in a rule from EPA. Adopting a rule that would add this method may conflict with Louisiana's obligation to maintain a federally equivalent program.

James H. Brent, Ph.D.
Assistant Secretary

0111#071

POTPOURRI

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

Public Hearing—Proposed Revision to the Contingency Measures in the Proposed State Implementation Plan (SIP) for Baton Rouge

Notice is hereby given that pursuant to the requirements of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and 40 Code of Federal Regulations, §51.102, of the United States Environmental Protection Agency (EPA) regulations concerning SIPs, the Louisiana Department of Environmental Quality (LDEQ) will conduct a public hearing to receive testimony regarding this proposed revision to the contingency measures in the proposed SIP for Baton Rouge.

In Chapter 6 of the revisions to the Baton Rouge SIP, which was noticed on page 1800 of the October 20, 2001, Louisiana Register, it was indicated that the emission reductions contributions mix to be used for contingency measures was subject to change even though the total would remain the same. Accordingly, since the sources providing the reductions have changed, LDEQ is providing public notice and the opportunity to comment on this proposed change.

A public hearing on this proposed revision to the proposed contingency measures in the Baton Rouge SIP will be held in Baton Rouge at 1:30 p.m. on Thursday, January 24, 2002, at LDEQ Headquarters, 7290 Bluebonnet Boulevard, Maynard Ketcham Building, Room 326.

Written comments regarding this proposed revision should be mailed to Vivian H. Aucoin, Office of Environmental Assessment, Environmental Planning Division, Box 82178, Baton Rouge, LA 70884-2178, or faxed to (225) 765-0617. Comments must be received by 4:30 p.m., January 24, 2002.

A copy of this proposed revision may be viewed from 8 a.m. to 4:30 p.m., Monday through Friday, in Room 4400, the Public Records Room at LDEQ, 7290 Bluebonnet Blvd. or at the Capital Regional Office, 5222 Summa Court, Baton Rouge. A copy may be obtained by calling the Public Records Room at (225) 765-0843.

Persons with disabilities requiring accommodations for the hearing should contact Ms. Lucy Kraft at (225) 765-0402 in advance of the hearing.

James H. Brent, Ph.D.
Assistant Secretary

0111#072

POTPOURRI

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

Private Nursing Facilities
New Reimbursement Rates

Effective for dates of service July 1, 2001 and thereafter, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes the following reimbursement rates for private nursing facility services:

<u>Level of Care</u>	<u>Daily</u>	<u>Monthly</u>
Skilled Nursing	\$ 85.42	\$2,598.19
Intermediate Care I	\$ 81.50	\$2,478.96
Intermediate Care II	\$ 81.50	\$2,478.96
Skilled Nursing -		
Infectious Disease	\$258.71	\$7,869.10
Skilled Nursing -		
Technology Dependent Care	\$246.61	\$7,501.05

Nursing home rates have been revised retroactively to July 1, 2001. This change is based on Centers for Medicare and Medicaid approval of the Medicaid State Plan Amendment changing the basis of costs from the 60th to the 62nd percentile. Any claim paid at the previous rate will be automatically adjusted by Unisys. It should be noted that these rates include a provider fee of \$5.56.

Inquiries regarding these rates may be directed to the Director of Institutional Reimbursement, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030.

David W. Hood
Secretary

0111#092

POTPOURRI

Department of Insurance Office of the Commissioner

Directive Number 01C 159
Notification of Changes Affecting
Qualifications for a License in this State

To: Third Party Administrators

Purpose

It has been brought to my attention that administrators are waiting until the filing of the annual reports (due March 1 of each year) to notify the Department of Insurance of changes in officers, directors, amendments to articles of incorporation, mergers, acquisitions and other such changes to the information originally submitted in support of their request for a license. The following Directive is intended to address the notification to the Department of material changes or other facts or circumstances affecting qualification for a license in this state, and is not meant to limit the scope of the Department's regulatory authority over any insurance activity related to this notification that may not be addressed in this Directive.

Statute

R.S. 22:304.H provides: An administrator shall immediately notify the commissioner of any material change in its ownership, control, or other fact or circumstance affecting its qualification for a license in this state. (Emphasis added)

Directive Requirements

The Department of Insurance hereby notifies administrators that compliance with the immediate notification provision in the above statute shall be interpreted to mean within thirty days of the effective date of the material change in ownership, control, or other fact or circumstance affecting qualification for a license in this state.

Further, the Department of Insurance advises administrators that the following changes will require notification and that the corresponding documents must be submitted for this notification.

1. Changes in officers/directors

Document (A biographical affidavit must be filed on the proper form for each new officer/director)

2. Changes in ownership

Document (An updated organization chart showing the ownership of the administrator up to and including the ultimate controlling party)

3. Change in articles of incorporation

Document (A copy of the amended articles certified by the proper domiciliary state official. The certification must be original)

4. Entering into an administrative contract with a new insurer with Louisiana policyholders affected by the contract

Document (A proper Notice of Contract Form must be submitted)

5. A merger

Document (Written notice of the merger and, where appropriate, surrender of the original license of an entity which merged out of existence)

6. Addition or change of a trade name or "d/b/a"

Document (An original certification from the Louisiana Secretary of State confirming registration of the trade name with that Office)

7. Cessation of business in Louisiana

Document (A written notice with a return of the original license or an affidavit stating that the license is lost or misplaced)

Administrators failing to meet the requirements set forth in this Directive will be subject to regulatory action by the Department of Insurance.

Please be guided accordingly.

J. Robert Wooley
Acting Commissioner

0111#029

POTPOURRI

Department of Insurance Office of the Commissioner

Directive Number 01C 161
Stop-Loss/Excess Policies of Insurance

To: Insurers Authorized to Issue Property and Casualty or Health and Accident Policies of Insurance in this State

Purpose

It has been brought to my attention that insurers need to update stop-loss/excess insurance policy forms and that the required certification forms provided by the Department of Insurance must accompany such filings pursuant to Louisiana Revised Statutes (LA-R.S.) Title 22, Section 675, that provides relative to stop-loss or excess policies of insurance and establishes standards for such policies. The following Directive is intended to address the update and certification forms, and is not meant to limit the scope of the Department's regulatory authority over any insurance activity related to stop-loss/excess insurance that may not be addressed in this Directive.

Certification Of Compliance

1. Group Health Plan Stop-Loss Or Excess Insurance
LA-R.S. 22:675.C provides:

A stop-loss or excess insurance policy form intended for issue to cover losses of a group health plan, as defined in R.S. 22:250.1(1), shall be submitted to the Department of Insurance for prior approval pursuant to the policy form filing requirements established by R.S. 22:620 and shall satisfy the following conditions:

(1) The stop-loss or excess insurance policy shall be issued to and insure the group health plan or the plan itself and not the employees, members, or participants.

(2) Payments by the insurer shall be made to the sponsor of the group health plan or the plan itself and not the employees, members, participants, or providers except as required by Paragraph (4) of this Subsection.

(3) The specific stop-loss or excess limit or attachment point per individual claimant shall be at least ten thousand dollars. The aggregate stop-loss or excess limit or attachment point for the group health plan shall be, at a

minimum, one hundred twenty percent of the group health plan's total expected claims per policy period. (Emphasis added)

(4) The stop-loss or excess insurance policy shall contain a provision stating that the bankruptcy or insolvency of the insured shall not relieve the stop-loss carrier from its obligation under R.S. 22:655.A.

(5) The stop-loss or excess insurance policy shall contain a provision that eligible claims incurred under the group health plan during the contract period shall be covered, provided that proof of payment by the plan is furnished to the insurer within ninety days after the expiration of the policy or any later period that is provided in the contract or insurance policy.

(6) The stop-loss or excess insurance policy shall provide coverage with rates not subject to adjustment by the stop-loss insurer during the policy period, unless any of the following occur:

(7) There is a change in the benefits provided under the group health plan.

Enrollment under the group health plan changes by at least ten percent.

The stop-loss or excess insurance policy form filed with the Department of Insurance for approval shall contain a separate document certifying that each of the requirements specified in Paragraphs (1) through (6) of this Subsection have been met. (Emphasis added)

The Department of Insurance hereby directs insurers that issue stop-loss or excess insurance policies that insure group health plans to comply with Section C(7) and diligently file the appropriate Certification of Compliance form attached to this Directive certifying that each of the requirements specified above have been met.

Moreover, pursuant to 22:675.E, insurance companies writing stop-loss or excess insurance coverage shall exercise due diligence in ascertaining the legitimacy or authority of the underlying group health plan before issuing coverage. This shall include but not be limited to ensuring that the underlying plan is not a self-insured multiple employer welfare arrangement, as defined in 29 U.S.C. 1002 (40) unless the underlying plan is a self-insurance plan as defined in R.S. 22:3002(1) and is authorized to do business in this state as a self-insurer.

CERTIFICATION OF COMPLIANCE STOP-LOSS EXCESS INSURANCE POLICY

LSA-R.S. 22:675.C - Stop-loss or excess insurance policy intended for issuer to cover losses of a self-funded Group Health Plan. "Group Health Plan" means an employee welfare benefit plan as defined in Section 3(1) of the Employee Retirement Income Security Act of 1974, to the extent that the plan provides medical care and including items and services paid for as medical care to employees or their dependents, as defined under the terms of the plan, directly or through insurance, reimbursement, or otherwise.

Policy Form No. _____,
filed with the Louisiana Department of Insurance on: _____,
by: _____

(Name of Insurance Company)

fully satisfies the following conditions of §675.C(1-6)

(Printed Name and Signature of Authorized Representative of Insurer)

The particular policy definition and/or provisions are listed for each item with corresponding page numbers.

(1) The stop-loss or excess insurance policy will be issued to and insure the group health plan or the plan itself and not the employees, members or participants.

Definition/Provision - Page #

(2) Payments by the insurer will be made to the sponsor of the group health plan of the plan itself and not the employees, members, participants, or providers except in the event of group health plan's bankruptcy or insolvency.

Definition/Provision - Page #

(3) The specific stop-loss or excess limit or attachment point per individual claimant is at least ten thousand dollars. The aggregate stop-loss or excess limit or attachment point for the group health plan is, at a minimum, one hundred twenty percent of the group health plan's total expected claims per policy period.

Definition/Provision - Page #

(4) The stop-loss or excess insurance policy contains a provision stating that the bankruptcy or insolvency of the group health plan shall not release the insurer its obligation to pay losses incurred during the existence of stop-loss or excess insurance coverage.

Definition/Provision - Page #

(5) The stop-loss or excess insurance policy contains a provision allowing at least ninety days after expiration of the policy for both payment of eligible losses incurred under the group health plan during the policy period and, for filing proof of such payments for reimbursement by the insurer. The expense payment period will be at least ninety days longer than the expense incurral period.

Definition/Provision - Page #

(6) The stop-loss or excess insurance policy provides coverage with rates not subject to adjustment by the stop-loss insurer during the policy period, unless there is (a) a change in the benefits provided under the group health plan or; (b) enrollment under the group health plan changes by at least ten percent.

Definition/Provision - Page #

Pursuant to LSA-R.S. 22:675.E, Insurance companies writing stop-loss or excess insurance coverage shall exercise due diligence in ascertaining the legitimacy or authority of the underlying group health plan before issuing coverage. This includes ensuring that the underlying plan is not a self-insured multiple employer welfare arrangement unless the underlying plan is authorized to do business in this state as a self-insurer. "Self-insurer" means any entity that makes, provides, or issues a self-insurance plan. "Self-insurance plan" is defined in Chapter 3 of the Louisiana Insurance Code as any contract, plan trust, arrangement, or other agreement which is established or maintained to offer or provide health care services, indemnification, or payment for health care services, or health and accident benefits to employees of two or more employers, but which is not fully insured.

STOP-LOSS/EXCESS INSURANCE ISSUED TO A SELF-INSURANCE PLAN MUST MEET THE FOLLOWING ADDITIONAL REQUIREMENTS OF LSA-R.S. 22:3009.

- Aggregate and specific stop-loss or excess coverage may only be provided by an insurer licensed to do business in the state of Louisiana.
- The stop-loss or excess policy must contain provisions to cover incurred, unpaid claims liability in the event of plan termination.
- The stop-loss or excess insurer shall bear the risk of coverage for any employer participating in the self-insurance plan that becomes insolvent with outstanding contributions due.
- The underlying plan shall have a participating employer's fund in an amount at least equal to the point at which the stop-loss or excess insurer shall assume one hundred percent of additional liability.
- The stop-loss or excess insurance policy shall be submitted by the plan to the Commissioner of Insurance (Office of Health) at least thirty days prior to the proposed self-insurance plan's effective date and at least thirty days subsequent to any renewal date. The Commissioner shall review the policy to determine whether it meets the standards established by §3009.

2. Provider Stop-Loss Or Excess Insurance
LA-R.S. 22:675.F provides:

Provider stop-loss or excess insurance policies that protect health care providers from a portion of the financial risk assumed in managed care contracts with health and accident insurers, health maintenance organizations, and self-insured group plans shall be submitted to the Department of

Insurance for approval and shall satisfy the following conditions:

- (1) The stop-loss or excess insurance policy shall be issued to and insure the contracted provider or network of health care providers.
- (2) Payments by the insurer shall be made to the contracted provider or network of health care providers.

(3) The individual stop-loss amount, that is, retention or attachment point per claimant, shall be at least five thousand dollars. The aggregate stop-loss or excess amount shall be, at a minimum, fifty thousand dollars per calendar year. (Emphasis added)

(4) The stop-loss or excess insurance policy shall contain a provision that the proof of loss shall be furnished to the insurer within ninety days after the date that loss is incurred or any later period that is provided in the contract or insurance policy.

(5) Filings of a stop-loss or excess insurance policy filed with the Department of Insurance for approval shall contain a separate document certifying that each of the requirements specified in Paragraphs (1) through (4) of this Subsection have been met. (Emphasis added)

The Department of Insurance further directs insurers of provider stop-loss or excess insurance policies to comply with Section F(5) and diligently file the appropriate Certification of Compliance form attached to this Directive certifying that each of the requirements specified above have been met.

**CERTIFICATION OF COMPLIANCE
STOP-LOSS/EXCESS INSURANCE POLICY**

LSA-R.S. 22:675.F - PROVIDER STOP-LOSS OR EXCESS INSURANCE policies that protect health care providers from a portion of the financial risk assumed in managed care contracts with health and accident insurers, health maintenance organizations, and self-insured group plans.

Policy Form No. _____
filed with the Louisiana Department of Insurance on: _____
by: _____
(Name of Insurance Company)

fully satisfies the following conditions of §675.F(1-4)

The particular policy definitions and/or provisions are listed for each item with corresponding page numbers.

(1) The stop-loss or excess insurance policy will be issued to insure the contracted provider or network of health care providers.

Definition/Provision - Page #

(2) Payments by the insurer will be made to the contracted provider or network of health care providers.

Definition/Provision - Page #

(3) The attachment point per individual claimant is at least five thousand dollars. The aggregate stop-loss or excess amount, if any, is at least fifty thousand dollars per calendar year.

Definition/Provision - Page #
Please indicate if the policy **does not** provide for aggregate coverage.

(4) The stop-loss or excess insurance policy contains a provision allowing at least ninety days after the date loss is incurred for filing proof of loss with the insurer.

Definition/Provision - Page #

Please be guided accordingly.

J. Robert Wooley
Acting Commissioner

0111#030

POTPOURRI

**Department of Natural Resources
Office of Conservation**

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
C & D Resources, Inc.	Washington	L	Armogene Fontenot	001	065793
C & D Resources, Inc.	Washington	L	Armogene Fontenot	006	210653
C & D Resources, Inc.	Washington	L	Thistlethwaite Lbr Co	020	068199
C & D Resources, Inc.	Washington	L	Thistlethwaite Lbr Co	021	068966
C & D Resources, Inc.	Washington	L	Thistlethwaite Lbr Co	022	069799
C & D Resources, Inc.	Washington	L	Thistlethwaite Lbr Co	022-D	117386
C & D Resources, Inc.	Washington	L	Thistlethwaite Lbr Co	033	148555
C & D Resources, Inc.	Washington	L	VUB; John Stevens et al	001	051356
C & D Resources, Inc.	Washington	L	F RA SUA; Stevens	001	068211
C & D Resources, Inc.	Washington	L	VUA; John Stevens et al	002	140650
C & D Resources, Inc.	Washington	L	VUA; John Stevens et al	002-D	140862
C & D Resources, Inc.	Washington	L	Haas-Hirsch	001	075792
C & D Resources, Inc.	Washington	L	VUC; CH Bernard	001	069179
C & D Resources, Inc.	Washington	L	Washington SWD	003	108811
C & D Resources, Inc.	Washington	L	Washington SWD	001	050154 (30)
C & D Resources, Inc.	Washington	L	Washington SWD	002	054566 (30)
C & D Resources, Inc.	Washington	L	Thistlethwaite Lbr Co	008	48270
C & D Resources, Inc.	Washington	L	Thistlethwaite Lbr Co SWD	006	52080
C & D Resources, Inc.	Washington	L	Thistlethwaite Lbr Co	025	65584
C & D Resources, Inc.	Washington	L	John Stevens et al	001-D	82177
C & D Resources, Inc.	Washington	L	Thistlewaite Lbr Co	025D	104089
C & D Resources, Inc.	Washington	L	Haas-Hirsch	001-D	104918
C & D Resources, Inc.	Washington	L	Thistlethwaite Lbr Co B	032	125126
C & D Resources, Inc.	Washington	L	Fontenot-Stephenson SWD	001	970595
C & W Operating	Big Lake	L	LD RA SUE; Lillie LeBleu	001-D	100147
C & W Operating	Big Lake	L	Lillie LeBleu	001	050544
C & W Operating	Big Lake	L	Lillie LeBleu	001-T	052147
C & W Operating	Red River-Bull Bayou	S	RRBB PXY IVES RA SU; Farmer C	006	115416
C & W Operating	Red River-Bull Bayou	S	Farmer C	007	115582
C & W Operating	Red River-Bull Bayou	S	RRBB PXY IVES RA SU; Farmer C	011	121030
C & W Operating	Red River-Bull Bayou	S	RRBB PXY IVES RA SU; R Laffitte	003	131410

C & W Operating	Red River-Bull Bayou	S	RRBB PXY IVES RA SU; Farmer C	014	177559
C & W Operating	Red River-Bull Bayou	S	RRBB PXY IVES RA SU; Farmer C	015	179774
C & W Operating	Red River-Bull Bayou	S	RRBB PXY IVES RA SU; Farmer C	016	180575
C & W Operating	Red River-Bull Bayou	S	Pike Hall	003	182353
C & W Operating	Rodessa	S	Caddo Levee Board	B-1	050372
C & W Operating	Greenwood-Waskom	S	HILL SUB; Barnwell-Waskom	B-2	082364
C & W Operating	Greenwood-Waskom	S	Barnwell-Waskom	B-3	083254
C & W Operating	Greenwood-Waskom	S	Barnwell-Waskom	006	084572
C & W Operating	Greenwood-Waskom	S	Barnwell-Waskom	007	084573
Geneos Pete Cokinos	Port Barre	L	Botany Bay	001	084721
Gulf Coast Geo-Tech	Caddo Pine Island	S	M Allen	001	196109
Pace Royalty Trust Fund, Inc.	Canadian Bay	S	GR RC SUA; John Henry	001	202101
Pace Royalty Trust Fund, Inc.	Canadian Bay	S	DeSoto Oil & Gas Trust	001	222409
Pace Royalty Trust Fund, Inc.	Rock Point	S	Yarborough	001	045532
Robert L. Waterbury	Opelousas	L	C-2 RA SU U; R L Waterbury	001	077877
Robert L. Waterbury	Opelousas	L	C 3B RA SUE; A Ledoux	001	074914

Philip N. Asproditis
Commissioner

0111#056

POTPOURRI

**Department of Natural Resources
Office of Conservation
Injection and Mining Division**

Legal Notice C Docket No. IMD 2002-01

Pursuant to the provisions of the laws of the state of Louisiana and particularly Title 30 of the Louisiana revised Statutes of 1950 as amended, and the provisions of the Statewide Order No. 29-B, notice is hereby given that the Commissioner of Conservation will conduct a hearing at 6 p.m., Wednesday, January 9, 2002, at the Plaquemines Parish Council Chambers, 18039 Highway 15, Pointe a La Hache, LA.

At such hearing, the commissioner, or his designated representative, will hear testimony relative to the application of Newpark Environmental Services, Inc., 207 Town Center Parkway, Second Floor, Lafayette, LA 70506. The applicant requests approval from the Office of Conservation to construct and operate a commercial transfer station facility to receive, temporarily store and transfer nonhazardous (exploration and production) waste (NOW/E&P Waste). Applicant intends to transfer E&P Waste to other permitted processing and disposal facilities located in Louisiana and Texas. The proposed facility will be located in Venice, Louisiana, Township 21 South, Range 31 East, Section 18 of Plaquemines Parish, between McDermott Road and Canal Number 1.

The application is available for inspection by contacting Mr. Gary W. Snellgrove, Office of Conservation, Injection and Mining Division, Room 253 of the State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA on or before December 13, 2001. On or after December 18, 2001, the application will be available for inspection by contacting Mr. Snellgrove, Office of Conservation, Injection and Mining Division, Eighth Floor of the LaSalle Office Building, 617 North Third Street, Baton Rouge, LA. Copies of the application will be available for review at the Plaquemines Parish Council Office in Pointe a La Hache, Louisiana, or the Plaquemines Parish Library in Buras, Louisiana. Verbal information may be received by calling Mr. Snellgrove at (225) 342-5515.

All interested persons will be afforded an opportunity to present data, views or arguments, orally or in writing, at said public hearing. Written comments which will not be presented at the hearing must be received no later than 4:30 p.m., Wednesday, January 16, 2002, at the Baton Rouge Office. Comments should be directed to Office of Conservation, Injection and Mining Division, P.O. Box 94275, Baton Rouge, LA 70804; Re: Docket No. IMD 2002-01, Commercial Facility, Plaquemines Parish.

Philip N. Asproditis
Commissioner of Conservation

0111#052

POTPOURRI

**Department of Natural Resources
Office of Conservation
Injections and Mining Division**

Legal NoticeC Docket No. IMD 2002-02

Pursuant to the provisions of the laws of the state of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950 as amended, and the provisions of the Statewide Order No. 29-B, notice is hereby given that the Commissioner of Conservation will conduct a hearing at 6 p.m., Wednesday, January 9, 2002, at the Plaquemines Parish Council Chambers, 18039 Highway 15, Pointe a La Hache, LA.

At such hearing, the commissioner, or his designated representative, will hear testimony relative to the application of Trinity Storage Services, LP, dba Trinity Field Services, LP, 3700 Buffalo Speedway, Suite 1000, Houston, TX 77098. The applicant requests approval from the Office of Conservation to construct and operate a commercial transfer station facility to receive, temporarily store and transfer nonhazardous (exploration and production) waste (NOW/E&P Waste). Applicant intends to transfer E&P Waste to a permitted disposal facility located in Texas. The proposed facility will be located in Venice, LA, Township 21 South, Range 31 East, Sections 19 and 20 of Plaquemines Parish, at the end of McDermott Road.

The application is available for inspection by contacting Mr. Gary W. Snellgrove, Office of Conservation, Injection and Mining Division, Room 253 of the State Land and Natural Resources Building, 625 North Fourth Street, Baton

Rouge, LA on or before December 13, 2001. On or after December 18, 2001, the application will be available for inspection by contacting Mr. Snellgrove, Office of Conservation, Injection and Mining Division, Eighth Floor of the LaSalle Office Building, 617 North Third Street, Baton Rouge, LA. Copies of the application will be available for review at the Plaquemines Parish Council Office in Pointe a La Hache, Louisiana, or the Plaquemines Parish Library in Buras, Louisiana. Verbal information may be received by calling Mr. Snellgrove at (225) 342-5515.

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Philip N. Asproditis
Commissioner of Conservation

0111#053

POTPOURRI

**Department of Natural Resources
Office of the Secretary**

Fishermen's Gear Compensation Fund

In accordance with the provisions of R.S. 56:700.1 et. seq., notice is given that eight claims in the amount of \$28,866.59 were received for payment during the period October 1, 2001 - October 31, 2001. There were eight claims paid and no claims denied.

Loran Coordinates of reported underwater obstructions are:

2786	4686	Terrebonne
2824	4687	Terrebonne
2907	4695	St. Bernard

Latitude/Longitude Coordinates of reported underwater obstructions are:

2901.978	9044.474	Terrebonne
2912.186	9009.061	Lafourche
2918.007	8923.073	Plaquemines
2922.009	8940.572	Plaquemines
3950.619	8938.305	St. Bernard

A list of claimants and amounts paid can be obtained from Verlie Wims, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 44277, Baton Rouge, LA 70804 or you can call (225) 342-0122.

Jack C. Caldwell
Secretary

0111#078

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