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This public document was published at a total cost of \$3,925.00. Eight hundred fifty (850) copies of this public document were published in this monthly printing at a cost of \$1,925.00. The total cost of all printings of this document including reprints is \$3,925.00. This document was published by Moran Printing, Inc. 5425 Florida Boulevard, Baton Rouge, LA 70806, as a service to the state agencies in keeping them cognizant of the new rules and regulations under the authority of R.S. 49:950-971 and R.S. 981-999. This material was printed in accordance with standards for printing by state agencies established pursuant to R.S. 43:30. Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statutes.

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Executive Orders

EXECUTIVE ORDER MJF 00-1

Bond Allocation of Industrial Development Board
of the City of New Orleans, Louisiana, Inc.

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order No. MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 to establish:

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2000 (hereafter "the 2000 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2000 Ceiling; and

(3) a system of central record keeping for such allocations; and

WHEREAS, the Industrial Development Board of the City of New Orleans, Louisiana, Inc., has requested an allocation from the 2000 Ceiling to be used to finance the acquisition, construction and installation of a development project for the reconstruction and reconfiguration of a building to accommodate a mixed housing/commercial development facility located at 602 North Cortez, New Orleans, parish of Orleans, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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 bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2000 Ceiling as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$29,000,000	Industrial Development Board of the City of New Orleans, Project Louisiana, Inc.	3700 Orleans, L.L.C.

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2000, provided that such bonds are delivered to the initial purchasers thereof on or before April 3, 2000.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or

indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This Order is effective upon signature and shall remain 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 the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 5th day January, 2000.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0002#025

EXECUTIVE ORDER MJF 00-2

Tobacco Settlement Payment Options Task Force

WHEREAS, on November 23, 1998, the attorney generals of forty-six states, the District of Columbia, Puerto Rico, Guam, the United States Virgin Islands, American Samoa and the Northern Mariana Islands (hereafter "settling states") entered into a settlement agreement with Brown & Williamson Tobacco Corporation, Lorillard Tobacco Company, Philip Morris Incorporated, R.J. Reynolds Tobacco Company, and Liggett & Meyers (hereafter "tobacco manufacturers") to resolve the settling states' claims against the tobacco manufacturers, including those for reimbursement of costs expended on tobacco-related health care as alleged in *Richard P. Ieyoub v. Philip Morris Inc.*, No. 98-6473, 14th Judicial District Court, parish of Calcasieu, and other cases (hereafter "tobacco settlement");

WHEREAS, originally it was projected that the state of Louisiana's portion from the \$246 billion tobacco settlement would be approximately \$4.6 billion to be paid in 25 annual payments of approximately \$180 million; however, the terms of the tobacco settlement cause the actual amount each settling state receives each year to be uncertain as it is dependent on a number of variables, including the annual rate of domestic cigarette consumption;

WHEREAS, on October 23, 1999, the citizens of the state of Louisiana approved by a vote of 584,294 to 246,689 a proposition to amend the Louisiana Constitution of 1974 by adding Article VII, Sections 10.8, 10.9, and 10.10, to establish the Millennium Trust and the Louisiana Fund in the State Treasury into which portions of the monies received by the state of Louisiana as a result of the tobacco settlement are to be deposited and dedicated to the improvement of health care, higher education, and public and private elementary and secondary education in the state of Louisiana;

WHEREAS, the city of New York and several settling states, including the commonwealth of Virginia and the state of Florida, are in the process of pledging and/or selling all or part of their rights to receive the income stream expected from their portion of the tobacco settlement for a single lump-sum cash payment through tobacco settlement asset securitization, a bond sale financing mechanism that provides immediate cash and eliminates the risks involved in the tobacco settlement payment structure, including reduced, tardy or canceled annual payments; and

WHEREAS, prudent money management practices dictate that the best interests of the citizens of the state of Louisiana will be served by comparing the immediate lump sum value of its portion of the tobacco settlement to the value the annual payments would have if received as scheduled and in the amounts anticipated; analyzing the risks involved in the tobacco settlement payment plan, including those of reduced, tardy, or canceled annual payments; and exploring other tobacco settlement payment options, including those taken or being considered by other settling states such as tobacco settlement asset securitization;

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 Tobacco Settlement Payment Options Task Force (hereafter "Task Force") is hereby established within the executive department, Office of the Governor.

SECTION 2: The duties of the Task Force shall include, but are not limited to, the following:

A. Determining the value, and evaluating the risks, of the state of Louisiana receiving its portion of the tobacco settlement in accordance with the terms of the agreement entered on November 23, 1998, between the attorney generals of forty-six states, the District of Columbia, Puerto Rico, Guam, the United States Virgin Islands, American Samoa and the Northern Mariana Islands (hereafter "settling states") and Brown & Williamson Tobacco Corporation, Lorillard Tobacco Company, Philip Morris Incorporated, R.J. Reynolds Tobacco Company, and Liggett & Meyers (hereafter "tobacco manufacturers") to resolve the settling states' claims against the tobacco manufacturers, including those for reimbursement of costs expended on tobacco-related health care as raised in *Richard P. Ieyoub v. Philip Morris Inc.*, No. 98-6473, 14th Judicial District Court, parish of Calcasieu, and other cases (hereafter "tobacco settlement"), by receiving its portion of the tobacco settlement in annual payments over a 25 year period in comparison to exchanging, pledging and/or selling its annual payments for an immediate lump-sum cash payment.

B. Exploring and evaluating all tobacco settlement payment options available to the state of Louisiana in order to obtain optimum value from the tobacco settlement and/or to minimize risk variables such as reduction in the amount of payments, interruption or delay in receipt of payments, or premature cessation of the payments, including those taken and/or being considered by other settling states.

C. Analyzing

1) which, if any, of the options explored and evaluated pursuant to subsection 2(B) of this Order are permitted under

the laws of Louisiana and the Louisiana Constitution of 1974, as amended;

2) for each option permitted under the laws and constitution, the scope of any spending and/or depositing limitations placed on the monies received as a result of the tobacco settlement; and

3) for each option not permitted under the laws and constitution, the constitutional and/or statutory amendments necessary to make the option viable.

D. Submitting to the governor, speaker of the House of Representatives, and the president of the Senate, a comprehensive written report which addresses the issues set forth in subsections 2(A), (B) and (C) of this Order by March 31, 2000.

SECTION 3: The Task Force shall be composed of fourteen (14) members appointed by the governor and serving at his pleasure, selected as follows:

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

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

C. The attorney general, or the attorney general's designee;

D. The state treasurer, or the state treasurer's designee;

E. The president of the Senate, or the president's designee;

F. The speaker of the House of Representatives, or the speaker's designee;

G. The chair of the Senate Finance Committee, or the chair's designee;

H. The chair of the House Appropriations Committee, or the chair's designee;

I. The secretary of the Department of Revenue, or the secretary's designee;

J. The executive director of the Council for a Better Louisiana, or the executive director's designee;

K. The executive director of the Public Affairs Research Council, or the executive director's designee; and

L. Three (3) citizens of the state of Louisiana with expertise in banking, finance and/or business.

SECTION 4: The co-chairs of the Task Force shall be the state treasurer and the commissioner of administration. All other officers shall be elected by the membership of the Task Force.

SECTION 5: The Task Force shall hold its first meeting by February 4, 2000. Thereafter, it shall meet at regularly scheduled intervals and at the call of the chair.

SECTION 6: Support staff for the Task Force shall be provided by the Division of Administration and the Department of Revenue.

SECTION 7: Task Force members shall not receive additional compensation, a per diem, or travel expenses from the Office of the Governor for their service on the Task Force.

SECTION 8: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Task Force in implementing the provisions of this Order.

SECTION 9: 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 28th day of January, 2000.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0002#026

EXECUTIVE ORDER MJF 00-3

State of Emergency Suspension and Rescheduling
of Qualifying in the Parishes of Bossier, Caddo,
Claiborne, Lincoln, Union, Webster, and West Carroll

WHEREAS, "in order to ensure maximum citizen participation in the electoral process and provide a safe and orderly procedure for persons seeking to qualify or exercise their right to vote, to minimize to whatever degree possible a person's exposure to danger during declared states of emergency, and to protect the integrity of the electoral process," the Louisiana Legislature enacted R.S. 18:401.1 to provide "a procedure for the emergency suspension or delay and rescheduling of qualifying, absentee voting in person, and elections"; and

WHEREAS, on January 28, 2000, pursuant to the provisions of R.S. 18:401.1(B), the secretary of state, in conjunction with the commissioner of elections and registration, certified to the governor that as a result of an ice storm, a state of emergency exists in parishes of Bossier, Caddo, Claiborne, Lincoln, Union, Webster, and West Carroll and they recommend that qualifying underway in those parishes be suspended until such time as qualifying may be resumed;

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: Under the authority of R.S. 18:401.1(B) and based on the January 29, 2000, certification of the secretary of state, in conjunction with the commissioner of elections and registration, that a state of emergency exists in the parishes of Bossier, Caddo, Claiborne, Lincoln, Union, Webster, and West Carroll, and recommendation that the qualifying period in those parishes be suspended, a state of emergency is hereby declared to exist in the following parishes and qualifying in the following parishes is hereby suspended for the time periods and dates designated:

A. Parish of Bossier, suspended from 8:30 a.m. to 4:30 p.m. on Thursday, January 27, 2000;

B. Parish of Caddo, suspended from 8:30 a.m. on Thursday, January 27, 2000, until 5:00 p.m. on Friday, January 31, 2000;

C. Parish of Claiborne, suspended from 8:30 a.m. on Thursday, January 27, 2000, until 5:00 p.m. on Friday, January 28, 2000;

D. Parish of Lincoln, suspended from 3:00 p.m. on Thursday, January 27, 2000, until 5:00 p.m. on Friday, January 28, 2000;

E. Parish of Union, suspended from 3:00 p.m., on Thursday, January 27, 2000, until 5:00 p.m. on Friday, January 28, 2000;

F. Parish of Webster, suspended from 12:00 p.m. (noon) on Thursday, January 27, 2000, until 5:00 p.m. on Friday, January 28, 2000; and

G. Parish of West Carroll, suspended from 12:00 p.m. (noon) on Thursday, January 27, 2000, until 5:00 p.m. on Friday, January 28, 2000.

SECTION 2: In accordance with the procedures set forth in R.S. 18:401.1, qualifying in the parishes of Bossier, Caddo, Claiborne, Lincoln, Union, Webster, and West Carroll shall be rescheduled for and/or resume at 8:30 a.m. on Monday, January 31, 2000, and conclude at 5:00 p.m. on Monday, January 31, 2000.

SECTION 3: This Order is effective upon signature.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 28th day of January, 2000.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0002#027

EXECUTIVE ORDER MJF 00-4

Bond Allocation Industrial Development Board
of the City of New Orleans, Louisiana, Inc.

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order No. MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 to establish

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2000 (hereafter "the 2000 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2000 Ceiling; and

(3) a system of central record keeping for such allocations; and

WHEREAS, the Industrial Development Board of the City of New Orleans, Louisiana, Inc., has requested an allocation from the 2000 Ceiling to be used to finance the acquisition, construction and equipping of a furniture manufacturing facility located at 1050 South Jefferson Davis Parkway, New Orleans, parish of Orleans, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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 bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2000 Ceiling as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$2,500,000	Industrial Development Board of the City of New Orleans, Louisiana, Inc.	The Home Furnishing Store, Ltd.

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2000, provided that such bonds are delivered to the initial purchasers thereof on or before May 3, 2000.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This Order is effective upon signature and shall remain 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 the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 3rd day of February, 2000.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0002#133

EXECUTIVE ORDER MJF 00-5

Bond Allocation to Louisiana Local Government Environmental Facilities and Community Development Authority

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order No. MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 to establish

(1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 2000 (hereafter "the 2000 Ceiling");

(2) the procedure for obtaining an allocation of bonds under the 2000 Ceiling; and

(3) a system of central record keeping for such allocations; and

WHEREAS, the Louisiana Local Government Environmental Facilities and Community Development Authority has requested an allocation from the 2000 Ceiling to be used to finance the acquisition and installation of new equipment for the manufacture of polyethylene sheeting at a manufacturing facility located in the parish Ouachita, state of Louisiana, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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 bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2000 Ceiling as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$4,250,000	Louisiana Local Government Environmental Community Development Authority	Mid South Extrusion, Inc.

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 2000, provided that such bonds are delivered to the initial purchasers thereof on or before May 3, 2000.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This Order is effective upon signature and shall remain 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 the state of Louisiana, at the Capitol, in the city of Baton Rouge, on this 3rd day of February, 2000.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
0002#134

Emergency Rules

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students (TOPS)
(LAC 28:IV.2103)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend rules of the Tuition Opportunity Program for Students (R.S. 17:3042.1 and R.S. 17:3048.1).

The emergency rules are necessary to allow the 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 January 11, 2000, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28

EDUCATION

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

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

A. - C.3. ...

D. Procedure for Requesting Exceptions to the Initial and Continuous Enrollment Requirement

1. The student should complete and submit an exception request form, with documentary evidence, to the Office as soon as possible after the occurrence of the event or circumstance that supports the reinstatement request and must submit the request no later than May 30 of the academic year the student requests reinstatement into TOPS.

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 for an exception provided in §2103.E 11 (2) by LOSFA, 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 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 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.

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 postsecondary 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, 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 necessitates full or partial withdrawal from, or non-enrollment in, an eligible postsecondary 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.

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: Adopted by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 17:959 (October 1991), amended LR 22:338 (May 1996), repromulgated LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:

Jack L. Guinn
Executive Director

0002#001

DECLARATION OF EMERGENCY

Office of the Governor
Division of Administration
Board of Trustees of the State
Employees Group Benefits Program

Exclusive Provider Organization (EPO) F.M.L.A. Leave
(LAC 32:V.103)

Pursuant to the authority granted by R.S. 42:871(C) and 874(B)(2), vesting the Board of Trustees with the responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees hereby invokes the Emergency Rule provisions of R.S. 49:953(B).

The Board finds that it is necessary to amend the EPO Plan of Benefits to provide for continuation of coverage for an employee on approved F.M.L.A. leave. This action is necessary to implement requirements of the federal Family and Medical Leave Act (F.M.L.A.), and the rules and regulations promulgated pursuant thereto, in order to avoid sanctions or penalties from the United States.

Accordingly, the following Emergency Rule, adding Subsection E to Section 103 of *Louisiana Administrative Code*, Title 32, Part V, the EPO Plan of Benefits, is effective January 26, 2000, and shall remain in effect for a maximum of 120 days or until promulgation of the final Rule, whichever occurs first.

Title 32

EMPLOYEE BENEFITS

Part V. Exclusive Provider Organization (EPO)—Plan of Benefits

Chapter 1. Eligibility

§103. Continued Coverage

A. - D.3. ...

E. Family and Medical Leave Act (F.M.L.A.) Leave of Absence. An employee on approved F.M.L.A. leave may retain coverage for the duration of such leave. The participant employer shall pay the employer's share of the premium during F.M.L.A. leave, whether paid leave or leave without pay. The participant employer may pay the employee's share of the premium during unpaid F.M.L.A. leave, subject to reimbursement by the employee.

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 25:1806 (October 1999), LR 26:

A. Kip Wall
Interim Chief Executive Officer

0002#031

DECLARATION OF EMERGENCY

**Office of the Governor
Division of Administration
Board of Trustees of the State
Employees Group Benefits Program**

Preferred Provider Organization (PPO) F.M.L.A. Leave
(LAC 32:III.103)

Pursuant to the authority granted by R.S. 42:871(C) and 874(B)(2), vesting the Board of Trustees with the responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees hereby invokes the Emergency Rule provisions of R.S. 49:953(B).

The Board finds that it is necessary to amend the PPO Plan Of Benefits to provide for continuation of coverage for an employee on approved F.M.L.A. leave. This action is necessary to implement requirements of the federal Family and Medical Leave Act (F.M.L.A.), and the rules and regulations promulgated pursuant thereto, in order to avoid sanctions or penalties from the United States.

Accordingly, the following Emergency Rule, adding Subsection E to Section 103 of *Louisiana Administrative Code*, Title 32, Part III, the PPO Plan Of Benefits, is effective January 26, 2000, and shall remain in effect for a maximum of 120 days or until promulgation of the final Rule, whichever occurs first.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider Organization (PPO)—Plan of Benefits

Chapter 1. Eligibility

§103. Continued Coverage

A. - D.3. ...

E. Family and Medical Leave Act (F.M.L.A.) Leave of Absence. An employee on approved F.M.L.A. leave may retain coverage for the duration of such leave. The participant employer shall pay the employer's share of the premium during F.M.L.A. leave, whether paid leave or leave without pay. The participant employer may pay the employee's share of the premium during unpaid F.M.L.A. leave, subject to reimbursement by the employee.

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 25:1827 (October 1999), LR 26:

A. Kip Wall
Interim Chief Executive Officer

0002#030

DECLARATION OF EMERGENCY

**Office of the Governor
Division of Administration
Office of State Uniform Payroll**

Payroll Deduction (LAC 4:III.Chapter 1)

In accordance with R.S. 49:953.B, the Office of the Governor, Division of Administration, Office of State Uniform Payroll, is exercising the emergency provision of the Administrative Procedure Act, to adopt the following rule amending the regulations governing payroll deductions. The purpose of the amendment is to further define, clarify, and establish parameters for vendor participation. Adoption of this emergency rule is necessary for timely notification prior to open enrollment for payroll deductions and the Flexible Benefits plan.

The effective date of this emergency rule is February 1, 2000, and it shall remain in effect for 120 days or until the final rule takes effect through the normal promulgation process, whichever occurs first.

The notice of intent to adopt the following rule under the Administrative Procedure Act will be published in the February 20, 2000, edition of the *Louisiana Register*.

Title 4

ADMINISTRATION

Part III. Payroll

Chapter 1. Payroll Deductions

§101. Definitions

Administrative Contract contractual agreement entered into by the state with a company or corporation which meets or exceeds the requirements to manage a Flexible Benefits Plan.

Agency Number three digit identifier in the DOA statewide payroll system which serves as a key for processing and reporting. It may represent a single agency or a group of agencies.

Applicant any company, corporation, or organization which has submitted an application to be approved as a vendor for state payroll deduction or a vendor which has submitted an application for approval of an additional product or a change to an existing product.

Application the process through which a vendor requests continued deduction authorization by providing verification of company status, employee participation, remittance reconciliation, designated coordinator, and etc.

Authorized Code a unique identification code assigned by OSUP to each vendor which has been approved in the application process.

Commissioner as referenced herein shall be the Commissioner of Administration, Division of Administration.

Coordinator a vendor designated representative who provides the single authorized contact for communication

between the vendor and the Division of Administration, Office of State Uniform Payroll, payroll systems outside of the DOA statewide payroll system and any administrative contract(or).

Data File the body of information documented by copies of correspondence between OSUP, SEGBP, administrative contractor, departments/agencies, vendors, Department of Insurance, and state employees relative to employee solicitation, participation and service from vendors.

Deduction any voluntary reduction of net pay under written authority of an employee, which is not required by federal or state statute, or by court ordered action.

Department/Agency as referenced herein shall be any one of the 20 major departments of state government or any subdivision thereof.

Division of Administration (DOA) the Louisiana State Agency under the Executive Department which provides centralized administrative and support services to state agencies as a whole by developing, promoting, and implementing executive policies and legislative mandates.

DOA Statewide Payroll System the statewide system administered by the Division of Administration, Office of State Uniform Payroll to provide uniform payroll services to state agencies.

Employee Deduction Code the unique set of characters (representing vendor, product, product eligibility and Flexible Benefits Plan participation) used to record, deduct, remit, and track an employee's selection of available deduction.

Employee Payroll Benefits Committee (EPBC) the group designated in §103 to review current and prospective payroll deduction benefits.

Flexible Benefits Plan the program initiated by the state under which employees may participate in tax reduction benefits offered under IRS Code Section 125.

Flexible Benefits Plan Year the annual period of time designated for participation (e.g., July 1 through June 30).

General Insurance Vendors those insurance companies which market, through payroll deduction, non-tax qualified life and health insurance products.

Governing Board as referenced herein shall mean any one or all of: Board of Regents; Louisiana State University Board of Supervisors; Southern University Board of Supervisors; University of Louisiana Board of Supervisors; and Board of Supervisors of Community and Technical Colleges.

Guidelines for Review (GFR) as referenced herein shall mean the set of criteria established for the annual evaluation process.

Insurable Interest as referenced herein shall be as defined in R.S. 22:613.C.(1) and (2) e.g., an individual related closely by blood or by law, or a lawful and substantial economic interest in having the life, health or bodily safety of the individual insured continue.

IntraAgency Deduction a deduction required by the department/agency for cost effective collection of funds from employees for benefits provided, such as meals, housing, uniforms, and etc.

IntraOffice Deduction a deduction required by a particular office within a department/agency for cost effective collection of funds from employees for benefits provided, such as meals, housing, uniforms, and etc.

IRS as referenced herein shall mean the Internal Revenue Service with emphasis directed to the rules and regulations issued relative to employee taxes and benefits.

Menu Item Provider any vendor that provides a product which is included in the current year Flexible Benefits Plan.

New Application the process through which a new provider submits a request to be approved as a vendor to offer a specific product, or a current vendor requests for authorization to offer an additional product, policy form, or service plan.

Non-Insurance Vendor any vendor that offers a non-insurance product that is not provided under definition of a general insurance vendor.

Office of State Uniform Payroll (OSUP) the section within the Division of Administration primarily responsible for the DOA statewide payroll system and administration of the rules governing state employee payroll deductions.

Organization as referenced herein shall be any charitable group qualified under Federal Code 501 (c)(3), credit unions formed for the primary purpose of serving state (or parish) employees, labor union councils, or other deduction "permitted" by state statute. Permitted deductions are allowed by state statute rather than mandated.

Payroll Reporting Number the number used by the DOA statewide payroll system to identify a payroll reporting entity.

Policy Form referenced herein shall mean any of the written instruments through which a contract of insurance is set forth (i.e. the policy, certificate, rider, endorsement, application, schedule page, etc.) which is submitted to the Department of Insurance and subsequently approved for sale in Louisiana by the Commissioner of Insurance.

Premium Due the amount for which the client/employee would have been billed.

Product referenced herein shall mean the specific insurance or service authorized through the annual application process as defined in §115. This may include multiple policy forms and service plans under the product.

Product Authorization the term used to identify the annual process through which an additional product code is approved for a current vendor.

Product Code the portion of the employee deduction code assigned to specific insurance policy forms or vendor service plans authorized through the new application process.

Provider the individual or organization which renders service, provides goods, or guarantees delivery.

Reconciliation referenced herein refers to the resolution of differences resulting from a monthly match or comparison of vendor accounts receivable/invoice records to the state deduction/remittance records.

Review the process whereby the EPBC evaluates products and requests for product authorization.

Section 125 Status as referenced herein shall mean the eligibility, under Section 125 of the IRS Code, of the product to be included in a Flexible Benefits Plan menu.

SED-2 referenced herein shall be the standard form developed by the Division of Administration, Office of State Uniform Payroll used to process new applications and annual applications for deduction authority.

SED-4 as used herein shall mean the authorized deduction form published in this rule.

Service Plan type of insurance or non-insurance coverage under which benefits rather than monetary reimbursements are provided to the covered individual.

Third Party any agent for or representative of a provider.

Uniform Fee Schedule the fees designated for service(s) provided by state payroll systems for vendors, applicants, and others outside state government established by rule promulgated by the Division of Administration under R.S. 42:458.

University any one of the state higher education facilities which falls under the jurisdiction of appropriate "Governing Board."

Vendor referenced herein shall be any company, corporation, or organization having met the requirements of this rule and participating in payroll deduction.

Vendor Representative as referenced herein shall be any licensed agent or duly appointed representative designated by a vendor to market that vendor's authorized product(s).

Voluntary Deduction any deduction which the employee is free to accept or decline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:

§103. Employee Payroll Benefits Committee (EPBC)

A committee comprised of 12 nominated and two ex-officio classified state employee members established by the commissioner prior to July 1, 1996 fulfills the requirement of §107-112 of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), LR 26:

§105. EPBC Selection and Tenure

A. Initial members of the EPBC were selected by the UPS Payroll Steering Committee submitting a list of nominees for EPBC membership to the commissioner of administration for appointment of 12 members to serve staggered terms of one, two, and three years. Said list was submitted to the commissioner prior to November 30, 1995 and consisted of the following departmental membership:

1. one member, one-year term DHH-Department of Health and Hospitals;
2. one member, two-year term DOA-Division of Administration;
3. one member, three-year term DOC-Department of Corrections;
4. one member, one-year term DOL-Department of Labor;
5. one member, two-year term DOTD-Department of Transportation;
6. one member, three-year term DPS-Department of Public Safety;
7. one member, one-year term DSS-Department of Social Services;
8. one member, two-year term ED-Education (Schedule 19);
9. one member, three-year term ELEC-Elected Officials;

10. one member, one-year term LSUMC-HCSD-LSU Medical Center, Health Care Services Division;

11. one member, two-year term OTHER-other departments;

12. one member, three-year term WLF-Department of Wildlife and Fisheries;

13. ex-officio members shall be: director or assistant director of OSUP; and a designee of the Commissioner of Insurance.

a. Successive committee appointments shall be for a period of three years beginning July 1 consisting of the above departmental representation.

b. Prior to April 1, annually, EPBC shall submit, to the commissioner, three nominees for each of the four vacancies which will occur each year maintaining representation indicated in §105.A.

c. The commissioner shall select four of the nominees to fill respective dept/agency vacancies for EPBC membership.

d. The commissioner shall return a list of appointees to OSUP prior to May 1 each year.

e. Any EPBC vacancy which occurs due to termination of employment or retirement of a member, and which creates a vacancy for a period of 12 months or more shall be filled by appointment by the commissioner.

i. Within 30 days of notice of the vacancy, the EPBC shall submit a nominee for replacement to the commissioner.

ii. The commissioner shall affirm or reject the nomination within 30 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), LR 26:

§107. EPBC Product Evaluation (Requirements)

A. EPBC shall adopt and maintain basic Guidelines for Review (GFR), to follow in the conduct of the annual review of general insurance and non-insurance products.

B. OSUP shall maintain a data file of documentation provided each year by user agencies, employees, vendors, and Flexible Benefits Plan administrator relative to product utilization, services provided, and adherence to department/agency policy and this rule.

1. OSUP shall copy to the data file all correspondence relating to resolution of problems with and between vendors, employees, and departments/agencies.

2. OSUP shall include the basic information from annual application process and from new applications in the data file provided to EPBC.

C. The EPBC shall conduct an annual review of products authorized for deduction and new applications and requests for changes to existing products. The EPBC shall utilize the data file to evaluate user satisfaction with products and providers and the Guidelines for Review to evaluate product quality.

D. The EPBC shall issue an opinion of the annual review of all authorized products and all products and services requested on new applications, along with recommended actions to the commissioner.

E. OSUP shall provide the commissioner of administration information relative to vendor/product compliance with all other provisions of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), LR 26:

§109. EPBC Product Evaluation (Annual Applications)

A. Annual applications shall be submitted to the Division of Administration, Office of State Uniform Payroll by all vendors participating in payroll deduction. Annual application forms and instructions shall be provided to all approved vendors to be submitted prior to January 31 annually.

B. OSUP shall complete the annual application process in compliance with the commissioner's actions from the EPBC annual review.

1. On or before April 1 each year, the Division of Administration, Office of State Uniform Payroll or Governing Board will conduct a compliance review and shall notify vendors whether their annual application has been conditionally approved. See §119.

2. DOA statewide payroll system user agencies and other departments/agencies will be notified by OSUP of authorized deductions by vendor and product name and code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), LR 26:

§111. EPBC Product Evaluation (New Applications)

A. New applications shall be submitted annually to the Division of Administration, Office of State Uniform Payroll for any company, corporation, or organization interested in a new payroll deduction for additional products, policy forms, or service plans.

1. Written notice of requests for a new payroll deduction for additional products, policy forms, or service plans should be sent to the Office of State Uniform Payroll prior to April 1, 2000 and December first annually thereafter, in order to receive an application form to submit.

2. On or before April 1, 2000 and January thereafter, OSUP will provide deduction application forms along with instructions for completion to each entity on file.

3. Applications must be completed and submitted to the Office of State Uniform Payroll by April 30, 2000 and January 31 annually thereafter.

B. The EPBC shall conduct an annual review of all products requested in the new application process.

1. OSUP shall provide copies of the current data file information to EPBC for the annual review.

2. EPBC shall utilize the data file to evaluate user need/employee need for products and evaluate products and vendors in accordance with the GFR.

C. EPBC shall issue an opinion of the results of the annual review of products and new applications, along with recommended actions.

D. EPBC shall issue a summary report of opinions resulting from the annual review along with recommended actions to the commissioner on or before October 1 annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), LR 26:

§112. Requests for Changes to Existing Products

A. Vendors are allowed to solicit for payroll deduction only those products submitted and approved in the annual renewal or application process. Any change to existing products must be submitted to the Office of State Uniform Payroll for review and approval.

1. Any changes to existing products, including across the board rate increases, co-payment changes, and benefit changes, must be submitted to the Office of State Uniform Payroll by October 1 annually.

2. The Office of State Uniform Payroll and the EPBC will review the request and notify vendor of acceptance or denial by December 1 annually.

a. If accepted, the Office of State Uniform Payroll will notify the vendor by December 1 and provide procedures for implementing the change.

b. If denied, the Office of State Uniform Payroll will notify the vendor and add the vendor to the file of vendors for new applications. (See §111 for new applications). Upon receipt of completed application, the product will be reviewed along with all other applicants in the annual review process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 26:

§113. Product Approval and Notification

A. On or before November 1 annually, the commissioner of administration shall advise OSUP whether EPBC recommendations relative to products and new applications have been accepted or denied.

B. OSUP will complete the new application process for products which have been approved and notify all applicants whether requests were approved or denied. See §119.

C. DOA statewide payroll system user agencies and other departments/agencies will be notified by OSUP of authorized deductions by vendor and product name, DOA statewide payroll system vendor, product name and code and effective date. Deduction authorization for new products will be established on or before January 1 annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 22:22 (January 1996), LR 26:

§115. Application Process

A. Application shall be made by the company, corporation, or organization which is the provider of the product or recipient of monies and shall be signed by two officers of the applicant company, corporation or organization.

B. Applications for the purpose of providing deductions for IRA'S, *Annuities*, or *noninsurance investment programs* are not permitted.

C. Any applicant requesting authority to implement a deduction through OSUP, shall submit a completed application form to the Division of Administration, Office of State Uniform Payroll, Post Office Box 94095, Baton Rouge, LA 70804. Companies requesting application for any

state university shall submit the application to the Governing Board for that university. The application shall:

1. be submitted on a currently approved application (Form SED-2);

2. include certification (Form SED-3) from the secretary or undersecretary of the requesting department or university chancellor that said applicant has provided evidence that the vendor does meet the requirement of R.S. 42:455; that said deduction will not represent a duplication of a product of comparable value already provided by payroll deduction; that there is a recognized need for same; that a reasonable evaluation of the product was made by the department which substantiates the request; and that the applicant has been advised of the statute and the rule governing payroll deductions. Form SED-3 is submitted only with the completed application form SED-2;

3. indicate whether the request is for participation within a specific department/agency by choice (ability to service or applicability), or for statewide authority limited to certain payroll system(s);

4. include a written request for consideration for statewide authority (if current authority is limited) for next available deduction authorization;

5. designate a "coordinator" to represent the vendor as primary contact for: obtaining solicitation authorization for the vendor; dissemination of information and requirements among representatives presenting the product to state employees; resolution of invoicing, refund, and reconciliation problems; and resolving claims problems for employees;

6. respond to all applicable items (designated in instructions) on the form (SED-2) for new and annual renewal applications;

7. respond to all additional questions as required by EPBC.

D. Intraagency and/or intraoffice deductions for meals, housing, etc., will be permitted, provided the respective department head(s) certifies that collection of funds from employees is required by and is a benefit to the department/agency.

E. All vendors shall file an annual application with the Division of Administration, Office of State Uniform Payroll or Governing Board as scheduled by that office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:

§117. Applicant and Vendor Requirements

A. Any applicant for deduction which is not regulated by the Department of Insurance or federal or state Office of Financial Institutions and not permitted by state statute, except charitable organizations, shall:

1. possess appropriate license or other required certification for providing the particular product or service for a fee;

2. have been doing business in this state for not less than five years providing the product and/or services anticipated to be offered state employees;

3. be in compliance with all requirements of any regulatory and/or supervisory office or board charged with such responsibility by state statute or federal regulations;

4. provide to the commissioner within 30 days of approval an irrevocable Letter of Credit in the amount of \$100,000, or an irrevocable pledge of a Certificate of Deposit in the amount of \$100,000 to protect the state and any officer or employee from loss arising out of participation in the program or plan offered by the vendor;

5. have been recommended for consideration by the Employee Payroll Benefits Committee as an applicant from the annual review of active and prospective deductions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:

§119. Notification, Implementation, and Transition

A.1. On or before April 1 each year, the Division of Administration, Office of State Uniform Payroll or Governing Board will conduct a compliance review and shall notify vendors whether their annual application has been conditionally approved.

2. The EPBC shall conduct a thorough review of all products and, on or before January 1 each year, the Division of Administration, Office of State Uniform Payroll, shall notify all vendors whether their annual application has been approved.

3. Vendors whose requests have not been approved by the EPBC shall be notified by the Division of Administration, Office of State Uniform Payroll, by December first annually.

4. On or before first of January, each year OSUP shall notify all DOA statewide payroll system agencies and other departments/agencies and university governing boards of any new products which have been approved for deduction; Governing Boards shall notify universities.

5. Payroll systems outside of the DOA statewide payroll system will advise vendors whether the deduction will be established.

B. The vendor shall enroll employees for semi-monthly deduction amounts only. Optional modes may be authorized by OSUP or Governing Board prior to implementation of the deduction. Vendors granted deduction authority on the DOA statewide payroll system must use only semi-monthly deduction amounts. Payroll systems outside of the DOA statewide payroll system which permit monthly deductions may continue same.

C. Any vendor receiving payment through voluntary deductions on the effective date of this rule shall continue to be approved as a vendor until the next annual renewal process under the following conditions:

1. has a currently approved application on file, provided:

a. general insurance vendors have met the rating requirements set forth in R.S. 42:455 or equivalent;

b. noninsurance vendors shall have met the requirements set forth in this rule as required in R.S. 42:455 B;

c. individual product participation shall exceed 1000;

d. proper monthly reconciliation is being accomplished;

e. policy information and detail employee/client participation has been provided in response to requests for same from OSUP;

2. all other permitted deduction vendors have filed application for informational purposes.

D. Vendors currently participating in deductions which do not meet the minimum requirements set forth in R.S. 42:455 A.(1) a-e, (2) a-e or are not in compliance with the requirements of this rule by December 31, 2000 will be denied deduction privileges.

E. Vendors will be allowed twelve months after initial approval to meet the minimum product participation requirements.

F. Companies, corporations, or organizations which have been placed on the annual listing of applicants (April 1, 1999-March 31, 2000) for consideration of deduction participation shall not be exempted from compliance with any part of this rule.

1. New applications shall be processed for review by the EPBC in May 2000 and in February annually thereafter.

2. Results of the EPBC review shall be forwarded to the commissioner on or before October 1 annually.

3. The commissioner shall confirm or reject each recommendation and notify OSUP to establish, deny, and/or delete deduction authorization, and notify vendors and non-UPS agencies accordingly by December 30 each year.

4. OSUP shall notify vendors whether application requests have been approved or denied.

5. OSUP shall notify vendors and departments/agencies of products approved for deduction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:

§121. Deduction Authorization Form

A. Vendors not exempted in §121.F of this rule shall provide and use the standard deduction authorization format (Form SED-4) authorized by the Division of Administration.

1. The form provided by the vendor shall be no less than 8 1/2 inches in width nor 11 inches in length with a top margin (top of page to top of blocked area) of 1 1/8 inches.

2. Within a blocked area as illustrated herein the form shall include:

- a. the employee name and Social Security Number;
- b. the employer (department/agency) name and payroll reporting number or other appropriate I.D. (identification);
- c. vendor name, authorized code (vendor) and product code;
- d. product name, Section 125 eligibility, monthly premium amount, and semi-monthly premium amounts;
- e. amount of deduction, frequency, and beginning date of the deduction;
- f. employee signature and date of signature;
- g. authorized agent/vendor representative signature.

3. The form may include additional information provided that such information shall not represent a disclaimer or escape clause(s) in favor of the vendor. The authorization shall not stipulate any "contract" or "term of participation" requirements. However, employees may

designate a 'cap' or annual maximum for a charitable organization deduction authorized by R.S. 42:456.

B. The authorization must specify product name, Section 125 status, monthly premium or fee, the amount of deduction to be taken and the frequency of deduction as semi-monthly (24 annually). All "MS _ _ _ _" deductions in the DOA statewide payroll system must be semi-monthly only. Payroll systems outside of the DOA statewide payroll system which currently provide a monthly deduction cycle may continue same.

C. An employee shall have only one deduction authorization (which may cover more than one product) for a single vendor effective at any one time. Total current deduction amount and each component amount that make up that total must be reflected on any successive form(s). The form shall indicate:

1. a total monthly premium or fee amount, the total semi-monthly amount, individual product codes, and premium/fee amounts for each product code;

2. the pay period (date) in which the deduction was calculated to begin.

D. Vendor shall be responsible for completing authorization forms prior to obtaining employee signature and for submitting forms to the appropriate payroll office designated by each employing department/agency.

E. Deduction forms must contain appropriate employer identification number to support monthly Reconciliation process.

F. State Employee Group Benefits, Louisiana Deferred Compensation, United Way, U.S. "EE" Savings Bond, and Flexible Benefits Plan enrollment forms may be used in lieu of standard deduction (Form SED-4).

G. An employee may discontinue any voluntary deduction amount that is not committed for participation in a current Flexible Benefits Plan Year by providing written notification of that intent to his or her payroll office.

H. A deduction authorization shall not be processed for any employee which is intended to provide a benefit for any party for whom the employee has no insurable interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), amended LR 19:318 (March 1993), amended LR 22:22 (January 1996), LR 26:

§123. Solicitation of State Employees

A. Employees may be solicited for deduction only:

1. after notification to the vendor and state department/agencies from the Division of Administration, Office of State Uniform Payroll, or notification from the Governing Board for Universities, that the product has been approved;

2. upon written authorization from employer department and agency administrator; and

3. for participation in products currently authorized for deduction.

B. Solicitation of employees shall be conducted within the guidelines established by the department/agency.

C. The coordinator shall be responsible for obtaining solicitation authorization and department policy from the department/agency secretary or his designee.

D. Vendors may be barred by a department/agency from solicitation within that department/agency. Vendors may be barred from solicitation statewide by OSUP.

E. Any vendor representative who has been barred from state participation by a vendor shall not be allowed to represent any vendor for deduction for a minimum of two years thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:

§125. Vendor Responsibility

A. Vendor coordinator shall be responsible for dissemination of information such as the requirements of this rule and department/agency policy and procedures to vendor representatives.

B. Vendor coordinator shall act as liaison for the vendor with any administrative contract (or) and the state relative to Flexible Benefits Plan participation. The coordinator shall also be responsible for dissemination of information to vendor representatives.

C. Vendor shall use invoice/billing identification structure that is compatible with payroll agency control groups to facilitate the monthly reconciliation.

D. Vendors shall be responsible for preparing a reconciliation of monthly payroll deduction/remittances to vendor's monthly premium due.

E. Monthly Reconciliation shall include total monthly premium due amount, each product amount and product code that makes up the total amount of premium due, total remittance amount, and a listing of all exceptions between the premium due and deduction/remittance by employee within billing/payroll reporting groups.

F. Monthly Reconciliation exception listing shall identify the employee by Social Security Number and payroll reporting number and shall be grouped within payroll agency numbers for DOA statewide payroll system agencies and similarly for payroll systems outside of the DOA statewide payroll system.

G. Vendors shall furnish evidence of reconciliation to the Division of Administration, Office of State Uniform Payroll as requested by that office. Like verification may be required by other payroll systems outside of the DOA statewide payroll system.

H. Monthly certification of reconciliation will not be required of vendors that provide participants or members with monthly or quarterly statements of activity and/or balances.

I. Vendors failing to provide accurate and timely reconciliation verification will be barred from active solicitation until satisfactory certification is submitted to the Division of Administration, Office of State Uniform Payroll.

J. Vendors shall not be authorized to submit any deduction form which was obtained from an employee for the purpose of transmitting any part of that deduction to a third party.

K. Vendors must identify each policy form for specific product provided on the SED-2 application form. Vendors must indicate whether the form SED-2 is an annual application (renewal) or a new application for a product or service not previously approved for deduction.

L. Vendors shall not submit deduction forms listing any product or service for which a product code has not been assigned through the new application process. Vendors shall submit deduction forms only for those policy forms or service plans which have been approved.

M. Vendors shall follow procedures established by the Division of Administration, Office of State Uniform Payroll or Governing Board when refunding payroll deducted and remitted premiums to employees, implementing across the board rate increases, or requesting changes to existing products. See §112.

N. Vendors, applicants, and any representatives thereof shall be prohibited from any action intended to influence the opinion or recommendation of any EPBC member.

O. Vendors must reconcile monthly remittances in total and at each product level as of January.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:

§127. Department/Agency Responsibility

A. Department secretary/undersecretary or his designee shall:

1. approve or reject requests for solicitation authorization presented only by designated coordinators of approved vendors;

2. confirm with the vendor coordinator (and/or Louisiana Department of Insurance when applicable) the credentials of any vendor agent not represented to the department by the vendor coordinator;

3. provide vendor coordinators a copy of department/agency policy relative to receipt, processing, and cancellation of payroll deduction forms, as well as guidelines prior to permitting access to employees;

4. certify the use of any intraagency deduction to collect funds from employees for meals, housing, etc., is required by and is a benefit to the agency/department;

5. insure that intraoffice deductions such as flower, gift, and coffee funds are not permitted;

6. provide support for participation of selected EPBC members.

B. Departments/agencies shall provide OSUP a written report of acts of noncompliance by any vendor to this rule or to the published guidelines of that department/agency.

C. Payroll personnel of DOA statewide payroll system agencies may process refunds for amounts previously deducted from any vendors which receive consolidated remittance only as directed by OSUP. Payroll systems outside of the DOA statewide payroll system shall establish written policy for remittance and refund of deductions taken.

D. Department/agency payroll/personnel shall:

1. accept only authorization forms which conform to the standard deduction format (Form SED-4) from vendor representatives;

2. verify that the vendor name and the vendor and product codes on any deduction form submitted are in agreement with the current approved list;

3. accept forms for employee deductions which contain no obvious alterations without employee's written acknowledgment of such change;

4. be responsible for verifying that the deduction amount is in agreement with the monthly amount shown on the authorization;

5. be responsible for maintaining compliance with employee flexible benefits plan year contract commitment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:

§129. Reporting

A. Vendors shall provide written notification within ten days of final approval of any change in the name, address, company status, principal officers, and designated coordinator to OSUP.

B. Vendors shall provide as required by OSUP data disks, mailers, labels, postage, or other supplies necessary to avoid cost to the state in providing deduction information. Like assistance shall be provided to other payroll systems as determined appropriate to control state cost of providing deduction.

C. Annual (renewal) applications shall list specific products/policy forms provided. No new products or services or changes to existing products or services shall be added to SED-4 forms or marketed without prior approval through the annual application process.

D. Departments/agencies shall be responsible for reporting any infractions of this rule and/or department policy committed by any vendor or vendor representative to OSUP and/or appropriate Governing Board or Boards.

E. Vendors shall provide written notification of the dismissal of any representative participating in state deduction to OSUP and/or appropriate Governing Board or Boards.

F. Vendors with deductions "permitted" by statute shall provide annual (renewal) applications (Form SED-2).

G. Each Governing Board shall provide OSUP an annual report relative to vendors currently approved for deductions within each system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996). LR 26:

§131. Fees

A. Data, information, reports, or any other services provided to any vendor or any other party by the DOA statewide payroll system or other state payroll system shall be subject to payment of a fee for the cost of providing said data, information, reports, and/or services in accordance with the Uniform Fee Schedule.

B. Fees assessed shall be satisfied in advance of receipt of the requested data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform

Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:

§133. Termination of Payroll Deduction

A. Unethical conduct or practices of the vendor will result in the termination of payroll deduction authority for that vendor.

B. Unethical or unprofessional conduct of any vendor representative shall result in that individual being barred from participation in state deduction for any vendor.

C. Deduction authority shall be revoked for any vendor that fails to maintain compliance with provisions of R.S. 42:455.

D. Deduction authority may be revoked for any vendor that fails to comply with requirements of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:

§135. General

A. Deduction authorization shall not be transferred.

B. Approval of an applicant in no way constitutes endorsement or certification of the applicant/vendor by the state.

C. Group Benefits HMO and other Board Approved third party pass-through deductions and credit union reciprocal agreement payments to other state agency credit unions for transferred employees shall be the only exception to §125.J.

D. Administrative responsibilities of this rule shall preclude the Division of Administration from sponsoring applicants for vendor deduction authorization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:

§137. Appeal Process

A. Any vendor participating in deduction debarred from participating for any reason by a department/agency or university shall have the right to have that action reviewed by filing a written request for review with the secretary of the department/agency, or the chairman of the respective Governing Board. This request for review shall be filed within 10 days from the notice of debarment.

B. A written decision shall be rendered on any request for review within 14 days of receipt.

C. Any vendor who is not satisfied with this decision has the right to appeal to the commissioner of administration. Any such appeal must be in writing and received by the commissioner within 10 days of receipt by the vendor. The commissioner shall issue a written decision on the matter within 14 days of receipt of the written appeal.

D. The decision of the commissioner shall be the final administrative review.

SED-3 {09/95}

DEPARTMENT REQUEST
FOR
PAYROLL DEDUCTION VENDOR

In accordance with the rule governing payroll deductions, Title 4 (Chapter 1, §115.C.2),

I, _____, _____, on behalf of the
NAME TITLE

employees of _____, hereby request
DEPARTMENT

favorable consideration of a payroll deduction application submitted by:

A.

APPLICANT/VENDOR NAME

ADDRESS

CITY/STATE/ZIP

AGENT/REPRESENTATIVE

PHONE (Area/Number/Extension)

To offer:

B. (PRODUCT/

Section 125 Eligible
Yes [] No []

I further certify that this request does not represent a duplication of a product or service of comparable value currently available in the payroll system; that a review and/or survey conducted by this department has indicated a need for this particular deduction; that the above named company applicant has provided evidence of having met and/or exceeded all requirement of R. S. 42:455; and has knowledge of the requirements of the rule governing payroll deductions.

Department _____

Signature _____

Title _____

Date _____

SED-4 (9/95)

(V E N D O R N A M E H E R E)

State of Louisiana Employee Payroll Deduction Authorization							
Employee Name			Soc.	Sec.	No.	Payroll Reporting No.	
Department/Agency/Section Name				Control No.		Authorized Codes MS@ a-? MS@ m-?	
I hereby authorize my employer to deduct a total of \$ _____, monthly rate, from my salary until further notice and remit same to <u>(VENDOR NAME HERE)</u> . A TOTAL Semi-Monthly Deduction in the amount of \$ _____ represents one half of the total monthly premium required for the coverage(s) detailed below. I, hereby waive on behalf of myself, my heirs, successors, agents, and assigns any and all rights of action against the State of Louisiana, its agents, and assigns, arising out of the deduction, failure to deduct, or any other handling of this request for payroll withholding.							
DEDUCTION DETAIL (Product Codes, Premium Amts., 125 Elig.) MENU ELECTIONS							
PRODUCT NAME	PLAN PART.	CODE	125 ELIG.	MO. PREM.	PAYROLL CODE	INELIGIBLE & NON-PART Semi-Mo.	ELIGIBLE PART Semi-Mo.
	YES	NO					
PRODUCT ONE ##	P		Y	\$	MS@ P ?		\$
Product one ##		N	Y	\$	MS@ N ?	\$	
PRODUCT TWO ##	P		Y	\$	MS@ P ?		\$
Product two ##		N	Y	\$	MS@ N ?	\$	
PRODUCT THREE ##	P		Y	\$	MS@ P ?		\$
Product three ##		N	Y	\$	MS@ N ?	\$	
SUB TOTALS MS@ Non-Part. - Part.						\$ _____	\$ _____
Other Product 1 ##		N	N	\$	MS@ N ?	\$	
Other Product 2 ##		N	N	\$	MS@ N ?	\$	
Other Product 3 ##		N	N	\$	MS@ N ?	\$	
Begin/Change Date	Total Mo. Prem.		\$				
Date/Authorized	Total Semi-Mo. Ineligible		MS@		\$ _____		
BY: _____	Total Semi-Mo. Non-Part.		MS@		\$ _____		
Employee Signature	Total Semi-Mo		MS@		\$ _____		
	Participating						
TOTAL SEMI-MONTHLY			MS@		\$ _____		
(THIS FORM SUPERSEDES AND REPLACES ALL OTHER AUTHORITY FOR THIS DEDUCTION)							
Presentation and deduction authorization processed by: _____							
MS@ Agent			Phone _____				
Address _____							

(@ = Vendor Code Letter ? = Product Code Letter ## = FBMC Product Type number)

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 12:763 (November 1986), amended LR 16:402 (May 1990), LR 19:318 (March 1993), LR 22:22 (January 1996), LR 26:

Whitman Kling
Deputy Undersecretary

0002#024

DECLARATION OF EMERGENCY

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

Adult Denture Program Termination of Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as

directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing currently provides coverage for denture and denture repair services rendered to recipients age twenty-one years and older. As a result of a budgetary shortfall, the Bureau has determined it is necessary to terminate coverage of this optional services program under its Title XIX State Plan. This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this emergency rule will reduce expenditures in the Medicaid Program by approximately \$1,146,737 for state fiscal year 1999-2000.

Emergency Rule

Effective February 21, 2000, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing terminates coverage and reimbursement for denture services provided to recipients age twenty-one and older under the Medicaid Program.

Interested persons may submit written comments to the following address: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to 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

0002#052

DECLARATION OF EMERGENCY

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

Chiropractic Services Termination of Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures

to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides coverage for chiropractic services under the Medicaid Program. Section 440.225 of the Code of Federal Regulations (42 CFR) states that "any of the services defined in subpart A of this part that are not required under sections 440.210 and 440.220 may be furnished under the state plan at the state's option". Chiropractic services are considered optional under the Title XIX of the Social Security Act and a state may choose to either include or exclude these services under the Medicaid State Plan.

As a result of a budgetary shortfall, the Bureau has determined it is necessary to terminate coverage of chiropractic services for recipients aged 21 and older. However, the Medicaid Program will continue to provide coverage of medically necessary manual manipulation of the spine for Early and Periodic Screening, Diagnostic and Treatment Program (EPSDT) recipients under the age of 21 years when the service is rendered as the result of a referral from an EPSDT medical screening provider. Prior authorization shall continue to be required for chiropractic services rendered to recipients under four years of age and for the thirteenth chiropractic service rendered to recipients between the ages of 5 and 21. However, reimbursement shall no longer be made to chiropractors for radiology procedures.

This action is necessary to avoid a budget deficit in the medical assistance programs. It is estimated that the implementation of this emergency rule will reduce expenditures for the chiropractic services by approximately \$176,404 for state fiscal year 1999-2000.

Emergency Rule

Effective February 21, 2000, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing terminates coverage and reimbursement for chiropractic services for recipients aged 21 and older. However, the Medicaid Program will continue to provide coverage of medically necessary manual manipulation of the spine for Early and Periodic Screening, Diagnostic and Treatment Program (EPSDT) recipients under the age of 21 years when the service is rendered as the result of a referral from an EPSDT medical screening provider. Prior authorization shall continue to be required for chiropractic services rendered to recipients under four years of age and for the thirteenth chiropractic service rendered to recipients between the ages of 5 and 21. However, reimbursement shall no longer be made to chiropractors for radiology procedures.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person 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

0002#050

DECLARATION OF EMERGENCY

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

Durable Medical Equipment Customized
Wheelchairs Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing reimburses certain durable medical equipment items using a formula based on a percentage calculation of the Manufacturer's Suggested Retail Price (MSRP). As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the reimbursement for manual type customized wheelchairs and their components from MSRP minus 15 percent to MSRP minus 20 percent and reduce the reimbursement for motorized type customized wheelchairs from MSRP minus 12 percent to MSRP minus 17 percent.

This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that the implementation of this emergency rule will reduce expenditures for customized wheelchairs in the Durable Medical Equipment Program by approximately \$135,656 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of service February 8, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces reimbursement for manual type customized wheelchairs and their components from Manufacturer's Suggested Retail Price (MSRP) minus 15 percent to MSRP minus 20 percent and motorized type customized wheelchairs from MSRP minus 12 percent to MSRP minus 17 percent.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person 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

0002#039

DECLARATION OF EMERGENCY

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

Durable Medical Equipment E and K Procedure Codes

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 et seq. and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law". This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing reimburses certain durable medical equipment items at 80 percent of the Medicare Fee Schedule amount or billed charges whichever is the lesser amount for specific Health Care Financing Administration Common Procedure Codes (HCPC). As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce reimbursement for these specified HCPC procedure codes by 10 percent. Reimbursement will be reduced to 70 percent of the Medicare fee schedule amount or billed charges whichever is the lesser amount for the following HCPC procedure codes:

E1050-E1060	Wheelchairs with special features
E1070-E1110	
E1170-E1213	
E1221-E1224	
E1240-E1295	
K0002-K0014	
L7803-L8030	Breast Prosthesis
L8039	

L8400-L8435	Prosthetic Sheaths
L8470-L8485	Prosthetic Socks
L8100-L8230	Elastic Support Stockings
L8239	
A7003-A7017	Nebulizer Administrative Supplies
K0168-K0181	
K0529-K0530	
E0840-E0948	Traction Equipment
E0781, K0455	External Ambulatory Infusion Pumps
E0621	Patient Lift Slings
E0480	Percussors
E0550-E0560	Humidifiers
E0565	Compressors

This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that the implementation of this emergency rule will reduce expenditures for the designated medical equipment and supply items in the Durable Medical Equipment Program by approximately \$13,711 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of service February 8, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement for certain durable medical equipment items identified by specific HCPC procedure codes by 10 percent. Reimbursement will be reduced to 70 percent of the Medicare Fee Schedule amount or billed charges whichever is the lesser amount for the following HCPC procedure codes:

E1050-E1060	Wheelchairs with special features
E1070-E1110	
E1170-E1213	
E1221-E1224	
E1240-E1295	
K0002-K0014	
L7803-L8030	Breast Prosthesis
L8039	
L8400-L8435	Prosthetic Sheaths
L8470-L8485	Prosthetic Socks
L8100-L8230	Elastic Support Stockings
L8239	
A7003-A7017	Nebulizer Administrative Supplies
K0168-K0181	
K0529-K0530	
E0840-E0948	Traction Equipment
E0781, K0455	External Ambulatory Infusion Pumps
E0621	Patient Lift Slings
E0480	Percussors
E0550-E0560	Humidifiers
E0565	Compressors

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person 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

0002#049

DECLARATION OF EMERGENCY

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

Durable Medical Equipment Enteral
Formulas Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing reimburses for various groupings of enteral formulas either at 100 percent of the Medicare Fee Schedule or at an established flat fee amount for individual formulas or billed charges whichever is the lesser amount. As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce reimbursement for these enteral formulas by 20 percent. Reimbursement will be reduced to 80 percent of the Medicare Fee Schedule for various groupings of formulas or to a rate of 80 percent of established flat fee amount for certain individual formulas or billed charges whichever is the lesser amount.

This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that the implementation of this emergency rule will reduce expenditures for enteral formulas in the Durable Medical Equipment Program by approximately \$287,437 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of service February 8, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces reimbursement for enteral formulas by 20 percent. Reimbursement will be reduced to 80 percent of the Medicare Fee Schedule for various groupings of enteral formulas or to a rate of 80 percent of established flat fee

amount for certain individual formulas or billed charges whichever is the lesser amount.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person 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

0002#046

DECLARATION OF EMERGENCY

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

Durable Medical Equipment
Equipment and Supplies Delivery Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law". This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement in the Durable Medical Equipment Program for the delivery of medical equipment and supplies. The reimbursement is either the lessor of billed charges or 10 percent of the total shipping amount of the prior authorized medical equipment and supplies up to a maximum amount of \$75. As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the reimbursement rate for delivery of medical equipment and supplies to either the lessor of billed charges or 5 percent of the total shipping amount of the prior authorized medical equipment and supplies up to a maximum of \$50. This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this emergency rule will reduce expenditures in the Durable Medical Equipment Program by approximately \$61,893 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of service February 8, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement rate for delivery of medical equipment and supplies to either the lessor of billed charges or 5 percent of the total shipping amount of the prior authorized medical equipment and supplies up to a maximum of \$50.

Interested persons may submit written comments to the following address: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to 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

0002#045

DECLARATION OF EMERGENCY

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

Durable Medical Equipment
Flat Fee Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law". This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing currently provides reimbursement for the certain durable medical equipment items at a rate of 80 percent of the Medicare allowable fee. As a result of a budgetary shortfall, the Bureau has determined it is necessary to change the reimbursement methodology for these items from a percentage of the Medicare allowable fee to a Medicaid established flat fee amount. Reimbursement for these durable medical equipment items will be as follows:

Enteral infusion pumps

B9000, B9002	\$595 purchase	\$92 rental per month
B0777, B0778		

Standard type wheelchairs

E1130 and K0001	\$250 purchase	\$35 rental per month
E1140	\$412.50 purchase	\$38.50 rental per month
E1150	\$453.75 purchase	\$42.35 rental per month
E1160	\$375 purchase	\$50 rental per month

Hospital beds

E0255	\$650 purchase	\$75 rental per month
E0265	\$1250 purchase	\$75 rental per month

Artificial eyes

V2623	\$500 purchase	
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Commode chairs

E0163	\$55 purchase	
E0164	\$83.55 purchase	
E0165	\$85 purchase	
E0166	\$142.80 purchase	

Stationary suction machines

Z0500	\$225 purchase	\$35 rental per month
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This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this emergency rule will reduce expenditures for these durable medical equipment items by approximately \$42,559 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of service February 8, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing changes the reimbursement methodology for the following durable medical equipment items from 80 percent of the Medicare allowable fee to a Medicaid established flat fee amount:

Enteral infusion pumps

B9000, B9002	\$595 purchase	\$92 rental per month
B0777, B0778		

Standard type wheelchairs

E1130 and K0001	\$250 purchase	\$35 rental per month
E1140	\$412.50 purchase	\$38.50 rental per month
E1150	\$453.75 purchase	\$42.35 rental per month
E1160	\$375 purchase	\$50 rental per month

Hospital beds

E0255	\$650 purchase	\$75 rental per month
E0265	\$1250 purchase	\$75 rental per month

Artificial eyes

V263	\$500 purchase	
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Commode chairs

E0163	\$55 purchase	
E0164	\$83.55 purchase	
E0165	\$85 purchase	
E0166	\$142.80 purchase	

Stationary suction machines

Z0500	\$225 purchase	\$35 rental per month
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Interested persons may submit written comments to the following address: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to 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

0002#044

DECLARATION OF EMERGENCY

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

Durable Medical Equipment Medicare Part B Claims

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law". This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing currently provides reimbursement for full co-insurance and deductibles for Medicare Part B claims for durable medical equipment and supplies. Section 1902(a)(10) of the Social Security Act provides states flexibility in the payment of Medicare cost sharing for dually eligible Medicare/Medicaid recipients who are not Qualified Medicare Beneficiaries (QMBs). Section 4714 of the Balanced Budget Act of 1997 clarifies that states have flexibility in complying with the requirements to pay Medicare cost-sharing for Qualified Medicare Beneficiaries and the protections against payment liability for QMBs. Section 4714 states that "a state is not required to provide any payment for any expenses incurred relating to payment for deductibles, coinsurance, or co-payments for Medicare cost sharing to the extent that payment under Title XVIII for the service would exceed the payment amount that otherwise would be made under the state plan under this title for service if provided to an eligible recipient other than a Medicare beneficiary."

When a state's payment for Medicare cost sharing for an item or service rendered to a dually eligible Medicare/Medicaid recipient or a Qualified Medicare Beneficiary is reduced or eliminated to limit the amount under Title XVIII that the beneficiary may be billed or charged for the service, the amount of payment made under Title XVIII plus the amount of payment (if any) under the Medicaid State Plan shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

As a result of a budgetary shortfall, the Bureau has determined that it is necessary to compare the Medicare payment and the Medicaid rate on file for Medicare Part B claims for medical equipment or supply items. If the Medicare payment exceeds the Medicaid rate, the claim will be adjudicated as a paid claim with a zero payment. If the Medicaid rate would exceed the Medicare payment, the claim will be reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this emergency rule will reduce expenditures for in the Durable Medical Equipment Program by approximately \$112,470 for state fiscal year 1999-2000.

Emergency Rule

Effective with dates of service February 8, 2000, and thereafter, the Department of Health and Hospitals, Bureau of Health Services Financing shall compare the Medicare payment to the Medicaid rate on file for Medicare Part B claims for medical equipment or supply items. If the Medicare payment exceeds the Medicaid rate, the claim will be adjudicated as a paid claim with a zero payment. If the Medicaid rate would exceed the Medicare payment, the claim will be reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. If the Medicaid payment is reduced or eliminated as a result of the Medicare/Medicaid payment comparison, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full

for the service. The recipient does not have any legal liability to make payment for the service.

Interested persons may submit written comments to the following address: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this emergency rule. A copy of this emergency rule is available at parish Medicaid offices for review by interested parties.

David W. Hood
Secretary

0002#047

DECLARATION OF EMERGENCY

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

Durable Medical Equipment
Orthotics and Prosthetics Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing reimburses certain durable medical equipment items identified by specific Health Care Financing Administration Common Procedure Codes (HCPC) at 80 percent of the Medicare Fee Schedule amount or billed charges, whichever is the lesser amount. As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce reimbursement for orthotic and prosthetic items by 10 percent. Reimbursement will be reduced to 70 percent of the Medicare Fee Schedule amount or billed charges, whichever is the lesser amount, for the following HCPC procedure codes:

L0100-L2999	Orthotics
L3650-L4380	
L5000-L7499	Prosthetics

This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that the implementation of this emergency rule will reduce expenditures for orthotic and prosthetic items in the Durable Medical Equipment Program by approximately \$76,816 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of service February 8, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement for certain durable medical equipment items identified by specific HCPC procedure codes by 10 percent. Reimbursement will be reduced to 70 percent of the Medicare Fee Schedule amount or billed charges, whichever is the lesser amount, for the following HCPC procedure codes:

L0100-L2999	Orthotics
L3650-L4380	
L5000-L7499	Prosthetics

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person 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

0002#042

DECLARATION OF EMERGENCY

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

Durable Medical Equipment, Ostomy and Urological Supplies Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 et seq. and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law". This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative

Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing reimburse certain durable medical equipment items identified by specific Health Care Financing Administration Common Procedure Codes (HCPC) at either 80 percent of the Medicare Fee Schedule, 80 percent of the Manufacturer's Suggested Retail Price (MSRP) or billed charges, whichever is the lesser amount. As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the reimbursement rate for these items by 10 percent. The reimbursement will be reduced to 70 percent of the Medicare Fee Schedule, 70 percent of the MSRP amount or billed charges, whichever is the lesser amount for the following HCPC codes:

A4200- A4460	Ostomy and Urological supplies
A4927-A5149	
K0133-K0139	
A6020-A6406	Wound dressings and supplies
K0216-K0437	

This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that the implementation of this emergency rule will reduce expenditures in the durable medical equipment program by approximately \$31,025 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of service February 8, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement for certain durable medical equipment items identified by specific Health Care Financing Administration Common Procedure Codes by 10 percent. The reimbursement will be reduced to 70 percent of the Medicare Fee Schedule, 70 percent of the Manufacturer's Suggested Retail Price (MSRP) amount or billed charges, whichever is the lesser amount for the following HCPC codes:

A4200- A4460	Ostomy and Urological supplies
A4927-A5149	
K0133-K0139	
A6020-A6406	Wound dressings and supplies
K0216-K0437	

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person 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

0002#041

DECLARATION OF EMERGENCY

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

Durable Medical Equipment, Oxygen Concentrators and Glucometers Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law". This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for oxygen concentrators and glucometers in the Durable Medical Equipment (DME) Program. Currently, oxygen concentrators are reimbursed at a flat fee of \$1500 for purchase and \$175 per month rental. Glucometers are reimbursed at a flat fee of \$100 for purchase (rental is not applicable). As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the reimbursement fees for oxygen concentrators to \$1250 for purchase and \$150 per month for rental and for glucometers to \$30 for purchase. This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this emergency rule will reduce expenditures for oxygen concentrators and glucometers by approximately \$52,576 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of service February 8, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement provided under the Durable Medical Equipment Program for oxygen concentrators to \$1250 for purchase and \$150 per month for rental and for glucometers to \$30 for purchase.

Interested persons may submit written comments to the following address: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person

responsible for responding to 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

0002#043

DECLARATION OF EMERGENCY

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

Durable Medical Equipment, Parenteral and Enteral Supplies Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 et seq., and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing reimburses certain durable medical equipment items identified by specific Health Care Financing Administration Common Procedure Codes (HCPC) at 80 percent or 100 percent of the Medicare Fee Schedule. As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the reimbursement rate for these items by 10 percent. The reimbursement will be reduced to 70 percent of the Medicare Fee Schedule amount for the following HCPC codes:

B4034-B4084, B9004-B9999	Parenteral and Enteral supplies
E0776, E0791	
A4624-A4625	Suction Catheters
A4621	Tracheostomy masks or collars
A4623	Tracheostomy cannulas

The reimbursement will be reduced to 90 percent of the Medicare Fee Schedule amount for the following HCPC codes:

A4622	Tracheostomy tubes
A4629	Tracheostomy care kits

This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that the implementation of this emergency rule will reduce expenditures in the durable medical equipment program by approximately \$106,983 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of service February 8, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement for certain durable medical equipment items identified by specific Health Care Financing Administration Common Procedure Codes by 10 percent. The reimbursement will be reduced to 70 percent of the Medicare Fee Schedule amount for the following HCPC codes:

B4034-B4084, B9004-B9999	Parenteral and Enteral supplies
E0776, E0791	
A4624-A4625	Suction Catheters
A4621	Tracheostomy masks or collars
A4623	Tracheostomy cannulas

The reimbursement will be reduced to 90 percent of the Medicare Fee Schedule amount for the following HCPC codes:

A4622	Tracheostomy tubes
A4629	Tracheostomy care kits (HCPC) codes

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person 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

0002#040

DECLARATION OF EMERGENCY
Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing

Durable Medical Equipment Z and E Procedure Codes

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted

the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 et seq. and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law". This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides a flat fee reimbursement for all durable medical equipment items identified by Health Care Financing Administration Common Procedure Codes (HCPC) beginning with the letter "Z"; all miscellaneous equipment items identified with the HCPC code E1399; and all home health supply items and other miscellaneous supplies identified with the HCPC code Z1399. As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the reimbursement for medical equipment and home health supply items in the Durable Medical Equipment Program that are identified by a HCPC code beginning with the letter "Z" or HCPC code E1399 or Z1399 by 30 percent. This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that the implementation of this emergency rule will reduce expenditures for the designated medical equipment and home health supply items in the Durable Medical Equipment Program by approximately \$136,042 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of service February 8, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement for all durable medical equipment items identified by Health Care Financing Administration Common Procedure Codes (HCPC) beginning with the letter "Z"; all miscellaneous equipment items authorized with the HCPC codes E1399; and all home health supply items and other miscellaneous supplies identified with the HCPC code Z1399 by 30 percent.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person 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

0002#048

DECLARATION OF EMERGENCY

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

Early Periodic Screening Diagnosis and Treatment (EPSDT) Dental Services Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) dental services under the Medicaid Program. Reimbursement for these services is a flat fee established by the Bureau minus the amount which any third party coverage would pay. As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the reimbursement fees for EPSDT Dental services by 7 percent. This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this emergency rule will reduce expenditures for EPSDT Dental services by approximately \$405,404 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of service February 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement fees for the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Dental services by 7 percent.

Interested persons may submit written comments to the following address: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to 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

0002#018

DECLARATION OF EMERGENCY

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

Early Periodic Screening Diagnosis and Treatment (EPSDT) KidMed Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) KidMed Services under the Medicaid Program. Reimbursement for these services is the flat fee established by the Bureau minus the amount which any third party coverage would pay. As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the reimbursement fees for EPSDT KidMed services by 7 percent. This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this emergency rule will reduce expenditures for EPSDT KidMed services by approximately \$476,038 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of service February 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement fees for the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) KidMed services by 7 percent.

Interested persons may submit written comments to the following address: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to 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

0002#021

DECLARATION OF EMERGENCY

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

Early Periodic Screening Diagnosis and
Treatment (EPSDT) Rehabilitation
Services Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Rehabilitation services under the Medicaid Program. Reimbursement for these services is a flat fee established by the Bureau minus the amount which any third party coverage would pay. As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the fees for EPSDT Rehabilitation services by 7 percent. This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that the implementation of this emergency rule will reduce expenditures for EPSDT Rehabilitation services by approximately \$45,200 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of service February 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement rates for the Early Periodic Screening Diagnosis and Treatment (EPSDT) Rehabilitation services by 7 percent.

Interested persons may submit written comments to the following address: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to 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

0002#020

DECLARATION OF EMERGENCY

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

Emergency Ambulance Transportation
Services Medicare Crossover

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law". This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing currently provides reimbursement for full co-insurance and deductibles for Medicare Part B claims for emergency ambulance services. Section 1902(a)(10) of the Social Security Act provides States flexibility in the payment of Medicare cost sharing for dually eligible Medicare/Medicaid recipients who are not Qualified Medicare Beneficiaries (QMBs). Section 4714 of the Balanced Budget Act of 1997 clarifies that States have flexibility in complying with the requirements to pay Medicare cost sharing for Qualified Medicare Beneficiaries and the protections against payment liability for QMBs. Section 4714 states that "a State is not required to provide any payment for any expenses incurred relating to payment for deductibles, coinsurance, or copayments for Medicare cost-sharing to the extent that payment under Title XVIII for the service would exceed the payment amount that otherwise would be made under the State plan under this title for service if provided to an eligible recipient other than a Medicare beneficiary."

When a State's payment for Medicare cost sharing for an item or service rendered to a dually eligible Medicare/Medicaid recipient or a Qualified Medicare Beneficiary is reduced or eliminated to limit the amount under Title XVIII that the beneficiary may be billed or charged for the service, the amount of payment made under Title XVIII plus the amount of payment (if any) under the Medicaid State Plan shall be considered to be payment in full for the service. The beneficiary does not have any legal liability to make payment for the service.

As a result of a budgetary shortfall, the Bureau has determined it is necessary to compare the Medicare payment and the Medicaid rate on file for emergency ambulance

services. If the Medicare payment exceeds the Medicaid rate, the claim will be adjudicated as a paid claim with a zero payment. If the Medicaid rate would exceed the Medicare payment, the claim will be reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. This action is being taken in order to avoid a budget deficit in the medical assistance programs. It is estimated that the implementation of this emergency rule will reduce expenditures for the emergency ambulance services by approximately \$207,328 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of services on or after March 1, 2000, the Department of Health and Hospitals, Bureau of Health Services Financing shall compare the Medicare payment and the Medicaid rate on file for emergency ambulance services. If the Medicare payment exceeds the Medicaid rate, the claim will be adjudicated as a paid claim with a zero payment. If the Medicaid rate would exceed the Medicare payment, the claim will be reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. If the Medicaid payment is reduced or eliminated as a result of applying the limit of the Medicaid maximum payment, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

Interested persons may submit written comments to the following address: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this emergency rule. A copy of this emergency rule is available at parish Medicaid offices for review by interested parties.

David W. Hood
Secretary

0002#073

DECLARATION OF EMERGENCY

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

Emergency Medical Transportation Program
Emergency Ambulance Transportation Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization

review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for emergency ambulance transportation services. Reimbursement for these services is the base rate established by the Bureau minus the amount which any third party coverage would pay. As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the base rate for emergency ambulance transportation services by 7 percent. This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this emergency rule will reduce expenditures for emergency ambulance transportation services by approximately \$225,979 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of service February 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the base rate for emergency ambulance transportation services by 7 percent.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person 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

0002#022

DECLARATION OF EMERGENCY

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

Emergency Medical Transportation
Program
Nonemergency Ambulance
Transportation Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S.46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization

review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for nonemergency ambulance transportation services. Reimbursement for these services is the base rate established by the Bureau minus the amount which any third party coverage would pay. As a result of a budgetary shortfall the Bureau has determined it is necessary to reduce the base rate for nonemergency ambulance transportation services to the rate that was in effect prior to July 1, 1999. This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this emergency rule will reduce expenditures for nonemergency ambulance transportation services by approximately \$159,874 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of service February 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the base rate for nonemergency ambulance transportation services to the rate that was in effect prior to July 1, 1999.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person 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

0002#014

DECLARATION OF EMERGENCY

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

Family Planning Clinics Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This emergency rule is in accordance with the Administrative

Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides coverage for family planning clinic services. Reimbursement for these services is a flat fee established by the Bureau minus the amount which any third party coverage would pay. As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the reimbursement rate for family planning services by 7 percent. This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this emergency rule will reduce expenditures for family planning services by approximately \$4,672 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of service February 8, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement to family planning clinics by 7 percent.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person 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

0002#038

DECLARATION OF EMERGENCY

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

Hemodialysis Centers Medicare Part B Claims

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law". This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing currently provides reimbursement for full co-insurance and deductibles for Medicare Part B claims for hemodialysis services. Section 1902(a)(10) of the Social Security Act provides states flexibility in the payment of Medicare cost sharing for dually eligible Medicare/Medicaid recipients who are not Qualified Medicare Beneficiaries (QMBs). Section 4714 of the Balanced Budget Act of 1997 clarifies that states have flexibility in complying with the requirements to pay Medicare cost-sharing for Qualified Medicare Beneficiaries and the protections against payment liability for QMBs. Section 4714 states that "a state is not required to provide any payment for any expenses incurred relating to payment for deductibles, co-insurance, or co-payments for Medicare cost sharing to the extent that payment under Title XVIII for the service would exceed the payment amount that otherwise would be made under the state plan under this title for service if provided to an eligible recipient other than a Medicare beneficiary."

When a state's payment for Medicare cost sharing for an item or service rendered to a dually eligible Medicare/Medicaid recipient or a Qualified Medicare Beneficiary is reduced or eliminated to limit the amount under Title XVIII that the beneficiary may be billed or charged for the service, the amount of payment made under Title XVIII plus the amount of payment (if any) under the Medicaid State Plan shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

As a result of a budgetary shortfall, the Bureau has determined that it is necessary to do a comparison of the Medicare payment and the Medicaid rate on file for hemodialysis services. If the Medicare payment exceeds the Medicaid rate, the claim will be adjudicated as a paid claim with a zero payment. If the Medicaid rate would exceed the Medicare payment, the claim will be reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this emergency rule will reduce expenditures for hemodialysis services by approximately \$1,431,273 for state fiscal year 1999-2000.

Emergency Rule

Effective with date of service February 8, 2000, and thereafter, the Department of Health and Hospitals, Bureau of Health Services Financing shall compare the Medicare payment to the Medicaid rate on file for hemodialysis services. If the Medicare payment exceeds the Medicaid rate, the claim will be adjudicated as a paid claim with a zero payment. If the Medicaid rate would exceed the Medicare payment, the claim will be reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. If the Medicaid payment is reduced or eliminated as a result of the Medicare/Medicaid payment comparison, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

Interested persons may submit written comments to the following address: Thomas D. Collins, Office of the

Secretary, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this emergency rule. A copy of this emergency rule is available at parish Medicaid offices for review by interested parties.

David W. Hood
Secretary

0002#037

DECLARATION OF EMERGENCY

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

Home Health Extended Skilled Nursing Visits Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Service Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect of the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for Home Health extended skilled nursing visits provided to medically fragile Medicaid recipients under the age of 21. Reimbursement is made at a prospective rate established by the Bureau. As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the reimbursement rate for the first hour of the Home Health extended skilled nursing visit to \$20. The first hour of care must be included in the prior authorization request for extended skilled nursing visits. This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this emergency rule will reduce expenditures in the Home Health Program by approximately \$302,092 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of service February 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement rate for the first hour of the Home Health extended skilled nursing visit to \$20. The first hour of care must be included in the prior authorization request for extended skilled nursing visits.

Interested persons may submit written comments to the following address: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to 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

0002#013

DECLARATION OF EMERGENCY

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

Home Health Services, Skilled Nursing and Physical Therapy Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect of the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for skilled nursing and physical therapy services provided by home health agencies. Reimbursement is made at a prospective rate established by the Bureau. As a result of a budgetary shortfall, the Bureau has determined it is necessary to create a separate reimbursement rate of 80 percent of the current skilled nursing rate when services are performed by a licensed practical nurse (LPN). However, the current fee on file will continue to be paid when a registered nurse (RN) provides the skilled nursing service. In addition, it is necessary to establish a separate reimbursement rate of 80 percent of the current physical therapy rate when services are provided by a physical therapist assistant. However, the current fee on file will continue to be paid when a licensed physical therapist provides the physical therapy services. This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this emergency rule will reduce expenditures for skilled nursing and physical therapy

services provided by home health agencies by approximately \$258,079 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of service February 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes a separate reimbursement rate of 80 percent of the current Home Health skilled nursing rate when the skilled nursing service is provided by a licensed practical nurse (LPN). However, the current fee on file will continue to be paid when a licensed registered nurse (RN) provides the skilled nursing service. In addition, a separate reimbursement rate of 80 percent of the current Home Health physical therapy rate is established when the physical therapy services are provided by a physical therapist assistant. However, the current fee on file will continue to be paid when a licensed physical therapist provides the physical therapy services.

Interested persons may submit written comments to the following address: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to 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

0002#017

DECLARATION OF EMERGENCY

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

Hospital Program, Outpatient Services Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure 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 January of 1996 which established the reimbursement methodology for outpatient hospital services at an interim

rate of 60 percent of billed charges and cost settlement adjusted to 83 percent of allowable costs documented in the cost report, except for laboratory services subject to the Medicare Fee Schedule and outpatient surgeries (*Louisiana Register*, Volume 22, Number 1).

As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the interim reimbursement rate for hospital outpatient services to a hospital specific cost to charge ratio calculation based on filed cost reports for the period ending in state fiscal year 1997. The final reimbursement for these services will continue to be cost settlement at 83 percent of allowable costs. This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this emergency rule will reduce expenditures for hospital outpatient services by approximately \$2,776,021 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of service on or after March 8, 2000, the Department of Health and Hospitals, Bureau of Health Services Financing amends the interim payment for outpatient hospital services not subject to a fee schedule in private hospitals to a hospital specific cost to charge ratio calculation based on filed cost reports for the period ending in state fiscal year 1997. The final reimbursement for these services will continue to be cost settlement at 83 percent of allowable costs.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person 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

0002#085

DECLARATION OF EMERGENCY

**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 has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This

emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

Section 1902(a)(10) of the Social Security Act provides States flexibility in the payment of Medicare cost sharing for dually eligible Medicare/Medicaid recipients who are not Qualified Medicare Beneficiaries (QMBs). Section 4714 of the Balanced Budget Act of 1997 clarifies that states have flexibility in complying with the requirements to pay Medicare cost-sharing for Qualified Medicare Beneficiaries and the protections against payment liability for QMBs. Section 4714 states that a state is not required to provide any payment for any expenses incurred relating to payment for deductibles, co-insurance, or co-payments for Medicare cost sharing to the extent that payment under Title XVIII for the service would exceed the payment amount that otherwise would be made under the state plan under this title for service if provided to an eligible recipient other than a Medicare beneficiary.

When a state's payment for Medicare cost-sharing for an item or service rendered to a dually eligible Medicare/Medicaid recipient or a Qualified Medicare Beneficiary is reduced or eliminated to limit the amount under Title XVIII that the beneficiary may be billed or charged for the service, the amount of payment made under Title XVIII plus the amount of payment (if any) under the Medicaid State Plan shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

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. As a result of a budgetary shortfall, the Bureau has determined it is necessary to do comparison of the Medicare payment and the Medicaid rate on file for the revenue code(s) on Medicare Part A claims for services provided in small rural hospitals and hospital skilled nursing units. If the Medicare payment exceeds the Medicaid rate, the claim will be adjudicated as a paid claim with a zero payment. If the Medicaid rate would exceed the Medicare payment, the claim will be reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. This action is being taken in order to avoid a budget deficit in the medical assistance programs. It is estimated that the implementation of this emergency rule will reduce expenditures for Medicare Part A claims for inpatient services rendered in small rural hospitals and hospital skilled nursing units by approximately \$1,442,849 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of service on or after February 1, 2000, the Department of Health and Hospitals, Bureau of Health Services Financing shall compare the Medicare payment to the Medicaid rate on file for the revenue code(s) on

Medicare Part A claims for services provided in small rural hospitals and hospital skilled nursing units. If the Medicare payment exceeds the Medicaid rate, the claim will be adjudicated as a paid claim with a zero payment. If the Medicaid rate would exceed the Medicare payment, the claim will be reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. If the Medicaid payment is reduced or eliminated as a result of the Medicare/Medicaid payment comparison, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

Interested persons may submit written comments to the following address: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this emergency rule. A copy of this emergency rule is available at parish Medicaid offices for review by interested parties.

David W. Hood
Secretary

0002#007

DECLARATION OF EMERGENCY

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

Inpatient Psychiatric Services Medicare Part A

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law". This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing currently provides reimbursement for full co-insurance and deductibles for inpatient services provided in a free-standing psychiatric hospital or a distinct-part psychiatric unit of an acute care hospital. Section 1902(a)(10) of the Social Security Act provides states flexibility in the payment of Medicare cost sharing for dually eligible Medicare/Medicaid recipients who are not Qualified Medicare Beneficiaries (QMBs). Section 4714 of the

Balanced Budget Act of 1997 clarifies that states have flexibility in complying with the requirements to pay Medicare cost-sharing for Qualified Medicare Beneficiaries and the protections against payment liability for QMBs. Section 4714 states that "a state is not required to provide any payment for any expenses incurred relating to payment for deductibles, co-insurance, or co-payments for Medicare cost sharing to the extent that payment under Title XVIII for the service would exceed the payment amount that otherwise would be made under the state plan under this title for service if provided to an eligible recipient other than a Medicare beneficiary."

When a state's payment for Medicare cost-sharing for an item or service rendered to a dually eligible Medicare/Medicaid recipient or a Qualified Medicare Beneficiary (QMB) is reduced or eliminated to limit the amount under Title XVIII that the beneficiary may be billed or charged for the service, the amount of payment made under Title XVIII plus the amount of payment (if any) under the Medicaid State Plan shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

As a result of a budgetary shortfall, the Bureau has determined it is necessary to compare the Medicare payment and the Medicaid rate on file for the revenue code(s) on the Medicare Part A claim for inpatient psychiatric services. If the Medicare payment exceeds the Medicaid rate, the claim will be adjudicated as a paid claim with a zero payment. If the Medicaid rate would exceed the Medicare payment, the claim will be reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. This action is being taken in order to avoid a budget deficit in the medical assistance programs. It is estimated that the implementation of this emergency rule will reduce expenditures for Medicare Part A claims for inpatient mental health hospital services by approximately \$624,685 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of service on or after February 8, 2000, the Department of Health and Hospitals, Bureau of Health Services Financing shall compare the Medicare payment and the Medicaid rate on file for the revenue code(s) on the Medicare Part A claim for inpatient psychiatric services. If the Medicare payment exceeds the Medicaid rate, the claim will be adjudicated as a paid claim with a zero payment. If the Medicaid rate would exceed the Medicare payment, the claim will be reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. If the Medicaid payment is reduced or eliminated as a result of applying the limit of the Medicaid maximum payment, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

Interested persons may submit written comments to the following address: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this

emergency rule. A copy of this emergency rule is available at parish Medicaid offices for review by interested parties.

David W. Hood
Secretary

0002#036

DECLARATION OF EMERGENCY

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

Inpatient Psychiatric Services Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure 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 which established the prospective reimbursement methodology for inpatient psychiatric hospital services provided in either a free-standing psychiatric hospital or distinct part psychiatric unit of an acute care general hospital (*Louisiana Register*, Volume 19, Number 6). This rule was subsequently amended by a rule adopted to discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates for inpatient psychiatric services in those years when the rates are not rebased (*Louisiana Register*, Volume 25, Number 5).

As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the Medicaid prospective per diem rates for inpatient psychiatric services by 7 percent. This action is being taken in order to avoid a budget deficit in the medical assistance program. Taking into consideration the 7 percent reduction in per diem rates in state fiscal year 2000, the Department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that inpatient psychiatric services under the state plan are available at least to the extent that they are available to the general population in the state. It is estimated that implementation of this emergency rule will reduce expenditures for the inpatient

psychiatric services by approximately \$313,568 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of service on or after March 1, 2000 the Department of Health and Hospitals, Bureau of Health Services Financing reduces the reimbursement for inpatient psychiatric services by 7 percent.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person 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

0002#083

DECLARATION OF EMERGENCY

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

Laboratory and Portable X-Ray Services, Medicare Part B

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for full co-insurance and deductibles for Medicare Part B claims for laboratory and portable x-ray services. Section 1902(a)(10) of the Social Security Act provides states flexibility in the payment of Medicare cost sharing for dually eligible Medicare/Medicaid recipients who are not Qualified Medicare Beneficiaries (QMBs). Section 4714 of the Balanced Budget Act of 1997 clarifies that states have flexibility in complying with the requirements to pay Medicare cost-sharing for Qualified Medicare Beneficiaries and the protections against payment liability for QMBs. Section 4714 states that a state is not required to provide any payment for any expenses incurred relating to payment for deductibles, co-insurance, or copayments for Medicare cost-

sharing to the extent that payment under Title XVIII for the service would exceed the payment amount that otherwise would be made under the state plan under this title for service if provided to an eligible recipient other than a Medicare beneficiary.

When a state's payment for Medicare cost-sharing for an item or service rendered to a dually eligible Medicare/Medicaid recipient or a Qualified Medicare Beneficiary is reduced or eliminated to limit the amount under Title XVIII that the beneficiary may be billed or charged for the service, the amount of payment made under Title XVIII plus the amount of payment (if any) under the Medicaid State Plan shall be considered to be payment in full for the service. The beneficiary does not have any legal liability to make payment for the service.

As a result of a budgetary shortfall, the Bureau has determined it is necessary to do comparison of the Medicare payment and the Medicaid rate on file for the procedure code on Medicare Part B claims for laboratory and portable x-ray services. If the Medicare payment exceeds the Medicaid rate, the claim will be adjudicated as a paid claim with a zero payment. If the Medicaid rate would exceed the Medicare payment, the claim will be reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. This action is being taken in order to avoid a budget deficit in the medical assistance programs. It is estimated that the implementation of this emergency rule will reduce expenditures for the laboratory and portable x-ray services by approximately \$65,430 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of services on or after February 1, 2000, the Department of Health and Hospitals, Bureau of Health Services Financing shall compare the Medicare payment to the Medicaid rate on file for the procedure code on Medicare Part B claims for laboratory and portable x-ray services. If the Medicare payment exceeds the Medicaid rate, the claim will be adjudicated as a paid claim with a zero payment. If the Medicaid rate would exceed the Medicare payment, the claim will be reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. If the Medicaid payment is reduced or eliminated as a result of applying the limit of the Medicaid maximum payment, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

Interested persons may submit written comments to the following address: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this emergency rule. A copy of this emergency rule is available at parish Medicaid offices for review by interested parties.

David W. Hood
Secretary

0002#009

DECLARATION OF EMERGENCY

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

Laboratory and Portable X-Ray Services Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Service Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect of the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides coverage for laboratory and portable x-ray services under the Medicaid Program. Reimbursement for laboratory services is made on the basis of either the lower of billed charges, the state maximum amount, or the Medicare fee schedule amount. Reimbursement for portable x-ray services is on a flat fee basis. As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the reimbursement rates for laboratory and portable x-ray services by 7 percent. This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this emergency rule will reduce expenditures for laboratory and portable x-ray services by approximately \$495,632 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of service February 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement for laboratory and portable x-ray services by 7 percent.

Interested persons may submit written comments to the following address: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to 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

0002#023

DECLARATION OF EMERGENCY

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

Long Term Hospital Reimbursement Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure 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 20, 1994 which established the reimbursement methodology for inpatient hospital services, including long-term acute hospitals under the specialty hospital peer groups (*Louisiana Register*, Volume 20, Number 6) and subsequently adopted a rule which amended the peer group rate payment to the lowest blended per diem rate for each specialty hospital category without otherwise changing the methodology (*Louisiana Register*, Volume 22, Number 1). The reimbursement methodology for psychiatric treatment was later disjoined from the methodology for other types of services in a long-term acute hospitals in order to reimburse these services at the same prospective per diem rate established for psychiatric treatment facilities (*Louisiana Register*, Volume 23, Number 2). The June 20, 1994 rule was subsequently amended to restructure the prospective reimbursement methodology for inpatient services provided in long-term acute hospitals (*Louisiana Register*, Volume 23, Number 12).

As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce Medicaid prospective per diem rates for inpatient long term hospital services by 7 percent. This action is being taken in order to avoid a budget deficit in the medical assistance program. Taking into consideration the 7 percent reduction in per diem rates in state fiscal year 2000, the Department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that long term hospital services under the state plan are available at least to the extent that they are available to the general population in the state. It is estimated that the implementation of this emergency rule will reduce expenditures to long-term

hospitals by approximately \$132,224 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of service on or after March 1, 2000, the Department of Health and Hospitals, Bureau of Health Services Financing reduces the reimbursement to long term hospitals by 7 percent.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person 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

0002#084

DECLARATION OF EMERGENCY

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

Mental Health Rehabilitation Services Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Service Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect of the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for mental health rehabilitation services under the Medicaid Program. Reimbursement for these services is a prospective, negotiated and noncapitated rate based on the delivery of services as specified in the service agreement and the service package required for the adult and child/youth populations. As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the established reimbursement rates for high need services for adults and children as well as moderate need services for children by 7 percent. This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this emergency rule will reduce

expenditures in the Mental Health Rehabilitation Program by approximately \$359,472 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of service February 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement rates in the Mental Health Rehabilitation Program for high need services for adults and children as well as moderate need services for children by 7 percent.

Interested persons may submit written comments to the following address: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to 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

0002#019

DECLARATION OF EMERGENCY

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

Out-of-State Hospitals' Inpatient Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure 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 January of 1996 which established the reimbursement methodology for inpatient hospital services provided in out-of-state hospitals at the lower of 50 percent of billed charges or the Medicaid per diem rate of the state wherein the services are provided (*Louisiana Register*, Volume 22, Number 1). This rule was subsequently amended in September of 1997 to increase the reimbursement to 72 percent of billed charges for inpatient services provided in out-of-state hospitals to recipients up to age 21 (*Louisiana Register*, Volume 23, Number 9)

As a result of a budgetary shortfall, the Bureau has determined it is necessary to amend the reimbursement methodology for out-of-state hospitals that have provided at least 500 inpatient hospital days in State Fiscal Year 1999 to Louisiana Medicaid recipients and are located in border cities. Border cities are defined as cities that are located within a 50 mile trade area of the Louisiana state border. The following two cities meet the criteria for number of inpatient hospital days provided to Louisiana Medicaid recipients and the definition of border cities: Natchez, Mississippi and Vicksburg, Mississippi. Louisiana Medicaid reimbursement for inpatient services provided in all hospitals located in these two border cities will be at the lesser of each hospital's actual cost per day as calculated from the 1998 filed Medicaid cost report or the Mississippi Medicaid per diem rate. The actual cost per day is calculated by dividing total Medicaid inpatient cost by total Medicaid inpatient days, including nursery days. This reimbursement methodology is applicable for all Louisiana Medicaid recipients who receive inpatient services in an out-of-state hospital located in a border city, including those recipients up to the age of 21. This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this emergency rule will reduce expenditures for out-of-state hospital services by approximately \$42,697 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of service on or after March 8, 2000, the Department of Health and Hospitals, Bureau of Health Services Financing amends the reimbursement methodology for out-of-state hospitals that provided at least 500 inpatient hospital days in State Fiscal Year 1999 to Louisiana Medicaid recipients and are located in border cities. Border cities are defined as cities that are located within a 50 mile trade area of the Louisiana state border. The following two cities meet the criteria for number of inpatient hospital days provided to Louisiana Medicaid recipients and the definition of border cities: Natchez, Mississippi and Vicksburg, Mississippi. Louisiana Medicaid reimbursement for inpatient services provided in all hospitals located in these two border cities will be at the lesser of each hospital's actual cost per day as calculated from the 1998 filed Medicaid cost report or the Mississippi Medicaid per diem rate. The actual cost per day is calculated by dividing total Medicaid inpatient cost by total Medicaid inpatient days, including nursery days. This reimbursement methodology is applicable for all Louisiana Medicaid recipients who receive inpatient services in an out-of-state hospital located in a border city, including those recipients up to the age of 21.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person 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

0002#082

DECLARATION OF EMERGENCY

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

Outpatient Hospital Laboratory Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure 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 of 1997 that established a uniform reimbursement methodology for all laboratory services subject to the Medicare Fee Schedule regardless of the setting in which the services are performed, outpatient hospital or a non-hospital setting. Outpatient hospital laboratory services are reimbursed at the same reimbursement rate as laboratory services performed in non-hospital setting (*Louisiana Register*, Volume 23, Number 4).

As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the reimbursement rates for outpatient hospital laboratory services by 7 percent. This action is necessary in order to avoid a budget deficit in the medical assistance programs. Taking into consideration the 7 percent reduction in reimbursement rates in state fiscal year 2000, the Department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that outpatient hospital laboratory services under the state plan are available at least to the extent that they are available to the general population in the state. It is estimated that implementation of this emergency rule will reduce expenditures for outpatient hospital laboratory services by approximately \$129,481 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of service on or after March 8, 2000 the Department of Health and Hospitals, Bureau of Health Services Financing reduces the reimbursement for outpatient hospital laboratory services by 7 percent.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA

70821-9030. He is the person responsible for responding to all inquiries regarding this emergency rule. A copy of this emergency rule notice is available for review by interested parties at parish Medicaid offices.

David W. Hood
Secretary

0002#079

DECLARATION OF EMERGENCY

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

Outpatient Hospital Rehabilitation Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure 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 1997 which established a uniform reimbursement methodology for all rehabilitation services regardless of the setting in which the services are performed, outpatient hospital or a free-standing rehabilitation center (*Louisiana Register*, Volume 23, Number 6). Rehabilitation services include physical, occupational, speech, hearing, and language therapies.

As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the reimbursement rates for outpatient hospital rehabilitation services by 7 percent. This action is necessary in order to avoid a budget deficit in the medical assistance programs. Taking into consideration the 7 percent reduction in reimbursement rates in state fiscal year 2000, the Department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that outpatient hospital rehabilitation services under the state plan are available at least to the extent that they are available to the general population in the state. It is estimated that implementation of this emergency rule will reduce expenditures for outpatient hospital rehabilitation services by approximately \$34,105 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of service on or after March 8, 2000 the Department of Health and Hospitals, Bureau of Health Services Financing reduces the reimbursement for outpatient hospital rehabilitation services by 7 percent. Outpatient hospital rehabilitation services include physical, occupational, speech, hearing, and language therapies.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person 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

0002#078

DECLARATION OF EMERGENCY

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

Outpatient Hospital Services Medicare Part B

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law". This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950(B)(1) et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing currently provides reimbursement for full co-insurance and deductibles for Medicare Part B claims for outpatient hospital services. Section 1902(a)(10) of the Social Security Act provide states flexibility in the payment of Medicare cost sharing for dually eligible Medicare/Medicaid recipients who are not Qualified Medicare Beneficiaries (QMBs). Section 4714 of the Balanced Budget Act of 1997 clarifies that states have flexibility in complying with the requirements to pay Medicare cost sharing for Qualified Medicare Beneficiaries and the protections against payment liability for QMBs.

Section 4714 states that "a state is not required to provide any payment for any expenses incurred relating to payment for deductibles, co-insurance, or copayments for Medicare cost-sharing to the extent that payment under Title XVIII for the service would exceed the payment amount that otherwise would be made under the state plan under this title for service if provided to an eligible recipient other than a Medicare beneficiary."

When a state's payment for Medicare cost-sharing for an item or service rendered to a dually eligible Medicare/Medicaid recipient or a Qualified Medicare Beneficiary is reduced or eliminated to limit the amount under Title XVIII that the beneficiary may be billed or charged for the service, the amount of payment made under Title XVIII plus the amount of payment (if any) under the Medicaid State Plan shall be considered to be payment in full for the service. The beneficiary does not have any legal liability to make payment for the service.

As a result of a budgetary shortfall, the Bureau has determined it is necessary to do comparison of the Medicare payment and the Medicaid rate on file for the applicable revenue code. If the Medicare payment exceeds the Medicaid rate, the claim will be adjudicated as a paid claim with a zero payment. If the Medicaid rate would exceed the Medicare payment, the claim will be reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this emergency rule will reduce expenditures for the outpatient hospital services by approximately \$1,651,781 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of admission on or after February 8, 2000, the Department of Health and Hospitals, Bureau of Health Services Financing shall compare the Medicare payment to the Medicaid rate on file for the applicable revenue code. If the Medicare payment exceeds the Medicaid rate, the claim will be adjudicated as a paid claim with a zero payment. If the Medicaid rate would exceed the Medicare payment, the claim will be reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. If the Medicaid payment is reduced or eliminated as a result of the Medicare/Medicaid payment comparison, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

Interested persons may submit written comments to the following address: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this emergency rule. A copy of this emergency rule is available at parish Medicaid offices for review by interested parties.

David W. Hood
Secretary

0002#035

DECLARATION OF EMERGENCY

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

Outpatient Surgery Services Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure 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 December of 1985 that established the criteria and reimbursement for certain surgical procedures when performed in an outpatient setting. Reimbursement for these surgical procedures was set at a flat fee per service if the procedure code is included in one of the four Medicaid established payment groups. Reimbursement for those surgical procedures not included in the Medicaid outpatient surgery list was not changed from the established methodology (*Louisiana Register*, Volume 11, Number 12). A rule was subsequently adopted in January of 1996 which established the reimbursement methodology for outpatient hospital services at an interim rate of 60 percent of billed charges, except for those outpatient surgeries subject to the Medicaid outpatient surgery list (*Louisiana Register*, Volume 22, Number 1).

As a result of a budgetary shortfall, the Bureau has determined it is necessary to assign the highest flat fee in the four Medicaid established payment groups for outpatient surgery to those surgical procedures that are not included in the Medicaid outpatient surgery list. This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this emergency rule will reduce expenditures for the outpatient hospital surgery services by approximately \$880,048 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of service on or after March 8, 2000, the Department of Health and Hospitals, Bureau of Health Services Financing amends the reimbursement methodology for those surgical procedures that are not included in the Medicaid outpatient surgery list to the highest flat fee in the

four Medicaid established payment groups for outpatient surgery.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person 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

0002#077

DECLARATION OF EMERGENCY

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

Pharmacy Program Average Wholesale Price

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

Act 10 of the 1999 Regular Session of the Louisiana Legislature contained provisions that amended the reimbursement methodology for prescription drugs under the Medicaid Program. The provisions of Act 10 limited the payments for prescription drugs by amending the Estimated Acquisition Cost formula from Average Wholesale Price (AWP) minus 10.5 percent for single source drugs (brand name), multiple source drugs which 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 to AWP minus 10.5 percent for independent pharmacies and 13.5 percent for chain pharmacies. Chain pharmacies were defined as five or more Medicaid enrolled pharmacies under common ownership. All other Medicaid enrolled pharmacies were defined as independent pharmacies.

As a result of a budgetary shortfall, the Bureau has determined it is necessary to amend the current

reimbursement methodology for prescription drugs by changing the Estimated Acquisition Cost formula from AWP minus 10.5 percent to AWP minus 15 percent for independent pharmacies and from AWP minus 13.5 percent to AWP minus 16.5 percent for chain pharmacies for single source drugs (brand name), multiple source drugs which 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.

The Bureau has also determined that chain pharmacies shall be defined as more than 15 Medicaid enrolled pharmacies under common ownership. All other Medicaid enrolled pharmacies are defined as independent pharmacies. This action is necessary in order to avoid a budget deficit in the Medical Assistance Program. It is estimated that implementation of this emergency rule will reduce expenditures in the Pharmacy Program by approximately \$8,204,732 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of services on or after February 1, 2000, the Department of Health and Hospitals, Bureau of Health Services Financing limits payments for prescription drugs to the lower of:

1) Average Wholesale Price (AWP) minus 15 percent for independent pharmacies (all other Medicaid enrolled pharmacies) and 16.5 percent for chain pharmacies (more than 15 Medicaid enrolled pharmacies under common ownership);

2) Louisiana's Maximum Allowable Cost limitation plus the Maximum Allowable Overhead Cost;

3) Federal Upper Limits plus the Maximum Allowable Overhead Cost; or

4) provider's usual and customary charges to the general public. General public is defined as all other non-Medicaid prescriptions including third-party insurance, pharmacy benefit management plans and cash.

Interested persons may submit written comments to the following address: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this emergency rule. A copy of this emergency rule is available at parish Medicaid offices for review by interested parties.

David W. Hood
Secretary

0002#015

DECLARATION OF EMERGENCY

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

Private Hospital-Inpatient Services Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the

following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure 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 the prospective reimbursement methodology for inpatient services provided in private (non-state) acute care general 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). This rule was later amended by a rule adopted in May of 1999 which discontinued 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).

As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the prospective per diem rates for private (non-state) acute hospital inpatient services by 7 percent. This action is being taken in order to avoid a budget deficit in the medical assistance program. Taking into consideration the 7 percent reduction in per diem rates in state fiscal year 2000, the Department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that private (non-state) inpatient hospital services under the state plan are available at least to the extent that they are available to the general population in the state. It is estimated that implementation of this emergency rule will reduce expenditures for the private hospital inpatient services by approximately \$3,499,524 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of service on or after March 8, 2000 the Department of Health and Hospitals, Bureau of Health Services Financing reduces the reimbursement for private (non-state) hospital inpatient services by 7 percent.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person 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

0002#076

DECLARATION OF EMERGENCY

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

Private Intermediate Care Facilities for the Mentally Retarded Leave of Absence Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure 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 which established the reimbursement methodology for private intermediate care facilities for the mentally retarded (ICF/MR) on October 20, 1989 (*Louisiana Register*, Volume 15, Number 10). The reimbursement methodology contained provisions governing payment to private ICFs/MR when the recipient is absent from the facility due to hospitalization or visits with family. A rule was subsequently adopted in April of 1999 to expand the number of payable hospital leave of absence days from five to seven days per hospitalization for treatment of an acute condition (*Louisiana Register*, Volume 25, Number 4).

As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the payment to private ICFs/MR for hospital leave days by 25 percent. The reimbursement for hospital leave days will be 75 percent of the applicable per diem rate. This action is being taken in order to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this emergency rule will reduce expenditures to the private intermediate care facilities for the mentally retarded by approximately \$28,851 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of service on or after March 8, 2000, the Department of Health and Hospitals, Bureau of Health

Services Financing reduces the payment to private intermediate care facilities for the mentally retarded for hospital leave days by 25 percent. The reimbursement for hospital leave days will be 75 percent of the applicable ICF/MR per diem rate.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person 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

0002#081

DECLARATION OF EMERGENCY

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

Private Intermediate Care Facilities for the Mentally Retarded Reimbursement Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure 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 on October 20, 1989 which established the reimbursement methodology for private intermediate care facilities for the mentally retarded (*Louisiana Register*, Volume 15, Number 10). This rule was subsequently amended by a rule adopted 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 6).

As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the Medicaid prospective per diem rates for private intermediate care facilities for the mentally retarded (ICF-MR) by 7 percent. This action is being taken in order to avoid a budget deficit in the medical assistance programs. Taking into

consideration the 7 percent reduction in per diem rates in state fiscal year 2000, the Department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that private intermediate care facilities for the mentally retarded (ICF-MR) services under the state plan are available at least to the extent that they are available to the general population in the state. It is estimated that implementation of this emergency rule will reduce expenditures to the private intermediate care facilities for the mentally retarded by approximately \$2,246,075 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of service on or after March 1, 2000 the Department of Health and Hospitals, Bureau of Health Services Financing reduces the reimbursement for private intermediate care facilities for the mentally retarded by 7 percent.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person 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

0002#075

DECLARATION OF EMERGENCY

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

Private Nursing Facilities
Leave of Absence Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure 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 which established the reimbursement methodology for

private nursing facilities on June 20, 1984 (*Louisiana Register*, Volume 10, Number 6). The reimbursement methodology contained provisions governing payment to private nursing facilities when the recipient is absent from the facility due to hospitalization or visits with family. A rule was subsequently adopted in May of 1998 to expand the number of payable hospital leave of absence days from five to seven per hospitalization for treatment of an acute condition (*Louisiana Register*, Volume 24, Number 5)

As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the payment to private nursing facilities for hospital leave days by 25 percent. The reimbursement for hospital leave days will be 75 percent of the applicable per diem rate. This action is being taken in order to avoid a budget deficit in the medical assistance program. It is estimated that implementation of this emergency rule will reduce expenditures to the private nursing facilities by approximately \$436,512 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of service on or after March 8, 2000 the Department of Health and Hospitals, Bureau of Health Services Financing reduces the payment to private nursing facilities for hospital leave days by 25 percent. The reimbursement for hospital leave days will be 75 percent of the applicable private nursing facility per diem rate.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person 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

0002#080

DECLARATION OF EMERGENCY

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

Private Nursing Facilities Reimbursement Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This emergency rule is in accordance with the Administrative

Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure 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 on June 20, 1984 which established the reimbursement methodology for private nursing facilities (*Louisiana Register*, Volume 10, Number 6). This rule was subsequently amended by a rule adopted 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 6).

As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce Medicaid prospective per diem rates for private nursing facilities by 7 percent. This action is being taken in order to avoid a budget deficit in the medical assistance program. Taking into consideration the 7 percent reduction in per diem rates in state fiscal year 2000, the Department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that private nursing facilities services under the state plan are available at least to the extent that they are available to the general population in the state. It is estimated that implementation of this emergency rule will reduce expenditures to the private nursing facilities by approximately \$10,058,209 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of service on or after March 1, 2000 the Department of Health and Hospitals, Bureau of Health Services Financing reduces the reimbursement to private nursing facilities by 7 percent.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person 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

0002#074

DECLARATION OF EMERGENCY

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

Professional Services Program^c Medicare Part B Claims

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in

the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing currently provides reimbursement for full co-insurance and deductibles for Medicare Part B claims for professional services. Section 1902(a)(10) of the Social Security Act provides states flexibility in the payment of Medicare cost sharing for dually eligible Medicare/Medicaid recipients who are not Qualified Medicare Beneficiaries (QMBs). Section 4714 of the Balanced Budget Act of 1997 clarifies that states have flexibility in complying with the requirements to pay Medicare cost-sharing for Qualified Medicare Beneficiaries and the protections against payment liability for QMBs. Section 4714 states that a state is not required to provide any payment for any expenses incurred relating to payment for deductibles, co-insurance, or co-payments for Medicare cost sharing to the extent that payment under Title XVIII for the service would exceed the payment amount that otherwise would be made under the state plan under this title for service if provided to an eligible recipient other than a Medicare beneficiary.

When a state's payment for Medicare cost sharing for an item or service rendered to a dually eligible Medicare/Medicaid recipient or a Qualified Medicare Beneficiary is reduced or eliminated to limit the amount under Title XVIII that the beneficiary may be billed or charged for the service, the amount of payment made under Title XVIII plus the amount of payment (if any) under the Medicaid State Plan shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

As a result of a budgetary shortfall, the Bureau has determined that it is necessary to do comparison of the Medicare payment and the Medicaid rate on file for the procedure code(s) indicated on the Medicare Part B claims for professional services. If the Medicare payment exceeds the Medicaid rate, the claim will be adjudicated as a paid claim with a zero payment. If the Medicaid rate would exceed the Medicare payment, the claim will be reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. However, claims for hemodialysis and transplantation services are excluded from this limitation. This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this emergency rule will reduce expenditures for professional services by approximately \$3,813,281 for state fiscal year 1999-2000.

Emergency Rule

Effective with date of service February 1, 2000 and thereafter, the Department of Health and Hospitals, Bureau of Health Services Financing shall compare the Medicare

payment to the Medicaid rate on file for the procedure code(s) indicated on the Medicare Part B claims for professional services. If the Medicare payment exceeds the Medicaid rate, the claim will be adjudicated as a paid claim with a zero payment. If the Medicaid rate would exceed the Medicare payment, the claim will be reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. However, claims for hemodialysis and transplantation services are excluded from this limitation. If the Medicaid payment is reduced or eliminated as a result of the Medicare/Medicaid payment comparisons, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

Interested persons may submit written comments to the following address: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this emergency rule. A copy of this emergency rule is available at parish Medicaid offices for review by interested parties.

David W. Hood
Secretary

0002#010

DECLARATION OF EMERGENCY

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

Professional Services Program
Neonatal Care Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for neonatal care. Reimbursement for these services is the flat fee established by the Bureau minus the amount which any third party coverage would pay. As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce

the reimbursement of neonatal care services for the following Current Procedural Terminology (CPT) procedure codes: CPT code 99295 to \$496.85 and CPT code 99298 to \$100.10. This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that the implementation of this emergency rule will reduce expenditures for neonatal care services by approximately \$87,724 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of service February 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement of neonatal care services for the following Current Procedural Terminology (CPT) procedure codes: CPT code 99295 to \$496.85 and CPT code 99298 to \$100.10.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person 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

0002#016

DECLARATION OF EMERGENCY

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

Professional Services Program
Physician Services Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing reimburses professional services in accordance with an established fee schedule for Current Procedural Terminology (CPT) codes, locally assigned codes and Health Care Financing Administration (HCFA)

Common Procedure Codes (HCPC). Reimbursement for these services is a flat fee established by the Bureau minus the amount which any third party coverage would pay. As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the reimbursement fees for surgery codes (CPT codes 10040-69979), medicine codes (CPT codes 90281-99199), evaluation and management codes (CPT codes 99201-99499) fees for radiology services codes (CPT codes 70010-79999), pathology and laboratory services codes (CPT codes 80048-89399), and selected locally-assigned HCPCS by 7 percent. Excluded from this reduction will be the reimbursement fees for chemotherapy medications, prenatal and postnatal visits (CPT codes Z9004, Z9005 and Z9006), vaginal and cesarean deliveries, tubal ligations, anesthesia services for vaginal and cesarean deliveries, hemodialysis, tonsillectomies and adenoidectomies, neonatal care, and radiology oncology services. This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this emergency rule will reduce expenditures for physician services by approximately \$4,376,700 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of service February 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement fees for surgery codes (CPT codes 10040-69979), medicine codes (CPT codes 90281-99199), evaluation and management codes (CPT codes 99201-99499) fees for radiology services codes (CPT codes 70010-79999), pathology and laboratory services codes (CPT codes 80048-89399) and selected locally-assigned Health Care Financing Administration (HCFA) Common Procedure Codes (HCPC) by 7 percent. Excluded from this reduction will be reimbursement fees for chemotherapy medications, prenatal and postnatal visits (CPT codes Z9004, Z9005 and Z9006), vaginal and cesarean deliveries, tubal ligations, anesthesia services for vaginal and cesarean deliveries, hemodialysis, tonsillectomies and adenoidectomies, neonatal care, and radiology oncology services.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person 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

0002#012

DECLARATION OF EMERGENCY

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

Professional Services Program; Tonsillectomy and Adenoidectomy Services Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for tonsillectomy and adenoidectomy services. Reimbursement for these services is the flat fee established by the Bureau minus the amount which any third party coverage would pay. As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the professional fees for the performance of tonsillectomies and adenoidectomies for the following Current Procedural Terminology (CPT) procedure codes:

CPT code 42820	\$425.25
CPT code 42821	\$425.25
CPT code 42825	\$405.00
CPT code 42826	\$438.75
CPT code 42830	\$408.38
CPT code 42831	\$388.13

This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that the implementation of this emergency rule will reduce expenditures for tonsillectomies and adenoidectomies by approximately \$144,403 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of service February 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the professional fees for the performance of tonsillectomies and adenoidectomies for the following Current Procedural Terminology (CPT) procedure codes:

CPT code 42820	\$425.25
CPT code 42821	\$425.25
CPT code 42825	\$405.00
CPT code 42826	\$438.75
CPT code 42830	\$408.38
CPT code 42831	\$388.13

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person 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

0002#011

DECLARATION OF EMERGENCY

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

Rehabilitation Centers Services Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Service Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect of the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides coverage and reimbursement for services delivered by rehabilitation centers that are not part of a hospital, but are organized to provide a variety of outpatient rehabilitative services including physical, occupational, speech, hearing, and

language therapies. As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the reimbursement rates for services provided in a rehabilitation center by 7 percent. This action is being taken in order to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this emergency rule will reduce expenditures to rehabilitation centers by approximately \$5,000 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of service February 1, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement rates for services provided in rehabilitation centers by 7 percent. Rehabilitation centers are facilities that are not part of a hospital, but are organized to provide a variety of outpatient rehabilitative services including physical, occupational, speech, hearing, and language therapies.

Interested persons may submit written comments to the following address: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to 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

0002#006

DECLARATION OF EMERGENCY

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

Rehabilitation Services Medicare Crossover

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing currently provides reimbursement for full co-insurance and deductibles for Medicare Part B claims for rehabilitation services. Section 1902(a)(10) of the

Social Security Act provides states flexibility in the payment of Medicare cost-sharing for dually eligible Medicare/Medicaid recipients who are not Qualified Medicare Beneficiaries (QMBs). Section 4714 of the Balanced Budget Act of 1997 clarifies that states have flexibility in complying with the requirements to pay Medicare cost-sharing for Qualified Medicare Beneficiaries and the protections against payment liability for QMBs. Section 4714 states that "a state is not required to provide any payment for any expenses incurred relating to payment for deductibles, coinsurance, or copayments for Medicare cost-sharing to the extent that payment under Title XVIII for the service would exceed the payment amount that otherwise would be made under the state plan under this title for service if provided to an eligible recipient other than a Medicare beneficiary."

When a state's payment for Medicare cost-sharing for an item or service rendered to a dually eligible Medicare/Medicaid recipient or a Qualified Medicare Beneficiary is reduced or eliminated to limit the amount under Title XVIII that the beneficiary may be billed or charged for the service, the amount of payment made under Title XVIII plus the amount of payment (if any) under the Medicaid State Plan shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

As a result of a budgetary shortfall, the Bureau has determined it is necessary to compare the Medicare payment and the Medicaid rate on file for the revenue code(s) on the Medicare Part B claim for rehabilitation services. If the Medicare payment exceeds the Medicaid rate, the claim will be adjudicated as a paid claim with a zero payment. If the Medicaid rate would exceed the Medicare payment, the claim will be reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. This action is being taken in order to avoid a budget deficit in the medical assistance programs. It is estimated that the implementation of this emergency rule will reduce expenditures for rehabilitation services by approximately \$199,823 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of service on or after February 8, 2000, the Department of Health and Hospitals, Bureau of Health Services Financing shall compare the Medicare payment and the Medicaid rate on file for the revenue code(s) on the Medicare Part B claims for rehabilitation services. If the Medicare payment exceeds the Medicaid rate, the claim will be adjudicated as a paid claim with a zero payment. If the Medicaid rate would exceed the Medicare payment, the claim will be reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. If the Medicaid payment is reduced or eliminated as a result of applying the limit of the Medicaid maximum payment, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

Interested persons may submit written comments to the following address: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person

responsible for responding to inquiries regarding this emergency rule. A copy of this emergency rule is available at parish Medicaid offices for review by interested parties.

David W. Hood
Secretary

0002#034

DECLARATION OF EMERGENCY

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

Substance Abuse Clinics, Medicare Part B

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Service Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. and shall be in effect of the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing currently provides reimbursement for full co-insurance and deductibles for Medicare Part B claims for substance abuse clinic services. Section 1902(a)(10) of the Social Security Act provide states flexibility in the payment of Medicare cost sharing for dually eligible Medicare/Medicaid recipients who are not Qualified Medicare Beneficiaries (QMBs). Section 4714 of the Balanced Budget Act of 1997 clarifies that states have flexibility in complying with the requirements to pay Medicare cost sharing for Qualified Medicare Beneficiaries and the protections against payment liability for QMBs. Section 4714 states that a state is not required to provide any payment for any expenses incurred relating to payment for deductibles, co-insurance, or copayments for Medicare cost-sharing to the extent that payment under Title XVIII for the service would exceed the payment amount that otherwise would be made under the state plan under this title for service if provided to an eligible recipient other than a Medicare beneficiary.

When a state's payment for Medicare cost-sharing for an item or service rendered to a dually eligible Medicare/Medicaid recipient or a Qualified Medicare Beneficiary is reduced or eliminated to limit the amount under Title XVIII that the beneficiary may be billed or charged for the service, the amount of payment made under Title XVIII plus the

amount of payment (if any) under the Medicaid State Plan shall be considered to be payment in full for the service. The beneficiary does not have any legal liability to make payment for the service.

As a result of a budgetary shortfall, the Bureau has determined it is necessary to do comparison of the Medicare payment and the Medicaid rate on file for the applicable procedure code on the Medicare Part B claim for substance abuse clinic services. If the Medicare payment exceeds the Medicaid rate, the claim will be adjudicated as a paid claim with a zero payment. If the Medicaid rate would exceed the Medicare payment, the claim will be reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this emergency rule will reduce expenditures for the Substance Abuse Clinic services by approximately \$67 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of admission on or after February 1, 2000, the Department of Health and Hospitals, Bureau of Health Services Financing shall compare the Medicare payment to the Medicaid rate on file for the procedure code on the Medicare Part B claim for substance abuse clinic services. If the Medicare payment exceeds the Medicaid rate, the claim will be adjudicated as a paid claim with a zero payment. If the Medicaid rate would exceed the Medicare payment, the claim will be reimbursed at the lesser of the co-insurance and deductible or up to the Medicaid maximum payment. If the Medicaid payment is reduced or eliminated as a result of the Medicare/Medicaid payment comparison, the amount of the Medicare payment plus the amount of the Medicaid payment (if any) shall be considered to be payment in full for the service. The recipient does not have any legal liability to make payment for the service.

Interested persons may submit written comments to the following address: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this emergency rule. A copy of this emergency rule is available at parish Medicaid offices for review by interested parties.

David W. Hood
Secretary

0002#008

DECLARATION OF EMERGENCY

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

Substance Abuse Clinics Termination of Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in

the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure 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 currently provides coverage for Substance Abuse Clinic services under the Medicaid Program. As a result of a budgetary shortfall, the Bureau has determined it is necessary to terminate coverage of this optional services program under its Title XIX State Plan. This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this emergency rule will reduce expenditures in the Medicaid Program by approximately \$2,310,850 for state fiscal year 1999-2000.

Emergency Rule

Effective February 21, 2000, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing terminates coverage and reimbursement for Substance Abuse Clinic services under the Medicaid Program.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person 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

0002#033

DECLARATION OF EMERGENCY

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

Targeted Case Management Services Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under the Medical Assistance Program as authorized by R.S. 46:153 and 36:254 et seq. and pursuant to Title XIX of the Social Security Act and as directed by the 1999-2000 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This emergency rule is in accordance with the Administrative

Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for targeted case management services rendered to the following targeted populations: Infants and Toddlers, High Risk Pregnant Women, HIV-Infected Persons and Elderly and Disabled Adult Waiver recipients. Reimbursement for these services is a fixed monthly rate for the provision of the core elements of case management services. As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the fixed monthly reimbursement rate for case management services provided to the above-referenced targeted populations by 7 percent. This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that the implementation of this emergency rule will reduce expenditures for case management services by approximately \$91,114 for state fiscal year 1999-2000.

Emergency Rule

Effective for dates of service February 8, 2000 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the fixed monthly reimbursement rate for targeted case management services by 7 percent for services provided to the following targeted populations: Infants and Toddlers, High Risk Pregnant Women, HIV-Infected Persons and Elderly and Disabled Adult Waiver recipients.

Interested persons may submit written comments to the following address: Thomas D. Collins, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is the person 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

0002#051

DECLARATION OF EMERGENCY

Department of Natural Resources Office of Conservation

Pollution Control Statewide Order No. 29-B
(LAC 43:XIX.129)

Order requiring testing of exploration and production (E&P) waste upon receipt by a commercial facility, and identification of acceptable storage, treatment and disposal methods for certain E&P waste types.

Pursuant to the power delegated under the laws of the State of Louisiana, and particularly Title 30 of the Revised Statutes of 1950, as amended, and in conformity with the provisions of the Louisiana Administrative Procedure Act, Title 49, Sections 953(B)(1) and (2), 954(B)(2), as amended, the following Emergency Rule and reasons therefor are now

adopted and promulgated by the Commissioner of Conservation as being necessary to protect the public health, safety and welfare of the people of the State of Louisiana, as well as the environment generally, by continuing a procedure for testing E&P waste after receipt at a commercial facility and identifying acceptable storage, treatment and disposal methods for certain E&P wastes at commercial facilities.

Need and Purpose

Certain oil and gas exploration and production waste (E&P waste) is exempt from the hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA). This exemption is based on findings from a 1987-1988 Environmental Protection Agency (EPA) study and other studies that determined this type of waste does not pose a significant health or environmental threat when properly managed. The EPA, in its regulatory determination, found that these wastes are adequately regulated under existing federal and state programs.

Existing Louisiana State regulations governing the operations of commercial E&P waste disposal facilities (Statewide Order No. 29-B) require only very limited testing of the waste received for storage, treatment and disposal at each commercial facility. Such limited testing finds its basis in the above-mentioned national exemption for E&P waste recognized by the EPA. However, public concern warranted the Commissioner of Conservation to issue a first Emergency Rule effective May 1, 1998 (May 1, 1998 Emergency Rule), the purpose of which was to gather technical data regarding the chemical and physical makeup of E&P waste disposed of at permitted commercial E&P waste disposal facilities within the State of Louisiana. The May 1, 1998 Emergency Rule had an effective term of 120 days. However, technical experts under contract with the Office of Conservation determined during the term of the May 1, 1998 Emergency Rule that sampling and testing should be extended for an additional 30 days for the purpose of receiving additional data in order to strengthen the validity of the inferred concentration distributions within the various E&P waste types. Therefore, a Second Emergency Rule was issued on August 29, 1998, and effective through September 30, 1998.

The Second Emergency Rule required continued comprehensive analytical testing of E&P waste at the site of generation together with verification testing at the commercial E&P waste disposal facility. During the terms of the first and second Emergency Rules, approximately 1,800 E&P waste testing batches were analyzed, with the raw data results being filed with the Office of Conservation. Technical experts under contract with the Office of Conservation, together with staff of the Office of Conservation, determined that the number of raw data sets of E&P waste types, along with other published analytical results of E&P waste testing, provided adequate numbers of validated test results of the various generic E&P waste types to reach statistically valid conclusions regarding the overall chemical and physical composition of each type of E&P waste.

Therefore, continued testing of E&P waste at the site of generation was unnecessarily redundant, and was discontinued. The Third Emergency Rule adopted on

October 1, 1998 required continued testing of each E&P waste shipment at the commercial disposal facility according to procedures described in Section D. Such continued testing was required to assure that E&P waste shipments received for disposal at commercial facilities were consistent with evolving E&P waste profiles.

A Fourth Emergency Rule, adopted January 29, 1999, a Fifth Emergency Rule, adopted May 29, 1999, and a Sixth Emergency Rule, adopted September 26, 1999 provided requirements for continued testing of all E&P waste shipments received for disposal at commercial E&P waste disposal facilities, as well as identifying acceptable methods of storage, treatment and disposal of certain E&P waste types at such commercial facilities. However, since evaluation of data generated by Emergency Rules 1 and 2 has not been completed and a permanent rule has not been promulgated, it is necessary to adopt a Seventh Emergency Rule, effective January 24, 2000, to continue the requirements of the Fourth Emergency Rule.

Concurrent with implementation of this Emergency Rule, the Office of Conservation will continue development of a permanent rule for the management and disposal of E&P waste at commercial facilities within the State of Louisiana. Best E&P waste management practices, based on established E&P waste profiles, will be incorporated into the permanent rule. Such permanent rule will also address specific storage, treatment and disposal options for the various categories of E&P waste.

Synopsis

1. E&P Waste will be Transported with Identification

Each load of E&P waste transported from the site of generation to a commercial facility for disposal will be accompanied by an Oilfield Waste Shipping Control Ticket (Form UIC-28) and presented to the operator before offloading. Copies of completed Form UIC-28 are required to be timely filed with the Office of Conservation.

Produced water, produced formation fresh water and other E&P waste fluids are exempt from certain provisions of the testing requirements provided they are:

- 1) transported in enclosed tank trucks, barges, or other enclosed containers,
- 2) stored in enclosed tanks at a commercial facility, and
- 3) disposed by deepwell injection.

Such provision is reasonable because, provided the above conditions are met, exposure to the public and to the environment would be minimal.

2. Each Load of E&P Waste will be Tested at Commercial Facility

Before offloading at a commercial E&P waste disposal facility and in order to verify that the waste qualifies for the E&P category, each load of E&P waste shall be sampled for required parameters. Additionally, the presence and concentration of BTEX (benzene, toluene, ethyl benzene and xylene) compounds and hydrogen sulfide must be determined. Appropriate records of tests shall be kept at each commercial facility for review by the Office of Conservation.

3. Identification of Acceptable Storage, Treatment and Disposal Methods (Options) for E&P Waste

It is required that all offsite storage, treatment and disposal methods for E&P waste utilize approved technologies that are protective of public health and the environment. The Fifth Emergency Rule required that injection in Class II wells, after storage in a closed system, shall be utilized for Waste Types 01 and 14. The remainder of the E&P waste types are currently under study to confirm acceptable storage, treatment and disposal methods. Any additional acceptable storage, treatment and disposal methods will be promulgated in the near future.

Reasons

Recognizing the potential advantages of a testing program that is fully protective of public health and the environment and that adequately characterizes such waste as to its potentially toxic constituents, and by the identification of acceptable storage, treatment and disposal methods for certain types of E&P waste, it has been determined that failure to establish such procedures and requirements in the form of an administrative rule may lead to the existence of an imminent peril to the public health, safety and welfare of the people of the state of Louisiana, as well as the environment generally.

Protection of the public and our environment therefore requires the Commissioner of Conservation to take immediate steps to assure that adequate testing is performed and acceptable storage, treatment and disposal methods for certain types of E&P waste are employed at commercial facilities. The Emergency Rule, Amendment to Statewide Order No. 29-B (Emergency Rule) set forth hereinafter, is now adopted by the Office of Conservation.

Title 43

NATURAL RESOURCES

**Part XIX. Office of Conservation General Operations
Subpart 1. Statewide Order No. 29-B**

Chapter 1. General Provisions

§129. Pollution Control

A. - L. ...

M. Off-site Storage, Treatment and/or Disposal of E & P Waste Generated From Drilling and Production of Oil and Gas Wells

1. Definitions

Commercial Facility a legally permitted waste storage, treatment and/or disposal facility which receives, treats, reclaims, stores, or disposes of exploration and production waste for a fee or other consideration, and shall include the term "transfer station".

Exploration and Production (E&P) Waste drilling fluids, produced water, and other waste associated with the exploration, development, or production of crude oil or natural gas and which is not regulated by the provisions of the Louisiana Hazardous Waste Regulations and the Louisiana Solid Waste Regulations. Such wastes include, but are not limited to, the following:

Waste Type	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

02	oil-base drilling mud and cuttings
03	water-base drilling mud and cuttings
04	workover and completion fluids
05	production pit sludges
06	production storage tank sludges
07	produced oily sands and solids
08	produced formation fresh water
09	rainwater from ring levees and pits at production and drilling facilities
10	washout water generated from the cleaning of containers that transport E&P waste and are not contaminated by hazardous waste or material
11	washout pit water and solids from oilfield related carriers that are not permitted to haul hazardous waste or material
12	natural gas plant processing (E&P) waste which is or may be commingled with produced formation water
13	waste from approved salvage oil operators who only receive oil (BS&W) from oil and gas leases
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	wastes from permitted commercial facilities
16	crude oil spill clean-up waste
50	Salvageable hydrocarbons
99	other approved E&P waste

* * *

NOW exploration and production waste

* * *

M.2. - M.4.h. ...

5. Criteria for the Operation of Commercial Facilities and Transfer Stations

a. - h.iii. ...

i. Receipt, Sampling and Testing of E&P Waste

i. ...

ii. Testing Requirements

(a). Before offloading E&P waste at a commercial facility, including a transfer station, each load of E&P waste shall be sampled and analyzed by commercial facility personnel for the following:

(i). pH, electrical conductivity (EC-mmhos/cm) and chloride (Cl) content; and

(ii). the presence and concentration of BTEX (benzene, toluene, ethyl benzene, and xylene) compounds using an organic vapor monitor or other procedures sufficient to identify and quantify BTEX;

(iii). the sample temperature (degrees Fahrenheit) representing actual testing conditions of the sample obtained for BTEX analysis by methodology that will assure sufficient accuracy; and

(iv). the presence and concentration of hydrogen sulfide (H₂S) using a portable gas monitor.

(b). The commercial facility operator shall enter the pH, electrical conductivity, chloride (Cl) content, BTEX, BTEX sample temperature and hydrogen sulfide measurements on the manifest (Form UIC-28) which accompanies each load of E&P waste.

(c). Produced water, produced formation fresh water, and other E&P waste fluids are exempt from organic vapor monitoring measurement (BTEX), and the H₂S

measurement in (a) above if the following conditions are met:

(i). if transported by the generator or transporter in enclosed tank trucks, barges, or other enclosed containers; and

(ii). if stored in an enclosed container at a commercial facility; and

(iii). if disposed by deep well injection.

(d). Records of these tests shall be kept on file at each commercial facility for a period of three years and be available for review by the Commissioner or his designated representative. Copies of completed Form UIC-28 shall be filed with the Office of Conservation as provided in 129.M.6.d.

d.i. - l. ...

m. It is required that all offsite storage, treatment and disposal methods for E&P waste utilize approved technologies that are protective of public health and the environment. The following chart includes acceptable and required storage, treatment and disposal methods for each type of E&P waste disposed of at commercial facilities within the State of Louisiana:

Waste Type	Required Storage, Treatment and Disposal Method(s)
01	Injection in Class II well utilizing a closed system
02	(reserved)
03	(reserved)
04	(reserved)
05	(reserved)
06	(reserved)
07	(reserved)
08	(reserved)
09	(reserved)
10	(reserved)
11	(reserved)
12	(reserved)
13	(reserved)
14	Pipeline test water - Injection in Class II well utilizing a closed system Pipeline pigging waste - (reserved)
15	(reserved)
16	(reserved)
50	Commercial salvage oil facility
99	(reserved)

M.6. - S. ...

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 6:307 (July 1980), amended LR 8:79 (February 1982), LR 9:337 (May 1983), LR 10:210 (March 1984), LR 12:26 (January 1986), LR 16:855 (October 1990), LR 17:382 (April 1991), LR 26:

Summary

The Emergency Rule herein above adopted evidences the finding of the Commissioner of Conservation that failure to adopt the above rules may lead to an imminent risk to public health, safety and welfare of the citizens of Louisiana, and that there is not time to provide adequate notice to interested parties. However, the Commissioner of Conservation notes

again that a copy of the permanent Amendment to Statewide Order No. 29-B will be developed in the immediate future, with a public hearing to be held as per the requirements of the Administrative Procedure Act.

The Commissioner of Conservation concludes that the above Emergency Rule will better serve the purposes of the Office of Conservation as set forth in Title 30 of the Revised Statutes, and is consistent with legislative intent. The adoption of the above Emergency Rule meets all the requirements provided by Title 49 of the Louisiana Revised Statutes. The adoption of the above Emergency Rule is not intended to affect any other provisions, rules, orders, or regulations of the Office of Conservation, except to the extent specifically provided for in this Emergency Rule.

Within five days from date hereof, notice of the adoption of this Emergency Rule shall be given to all parties on the mailing list of the Office of Conservation by posting a copy of this Emergency Rule with reasons therefor to all such parties. This Emergency Rule with reasons therefor shall be published in full in the *Louisiana Register* as prescribed by law. Written notice has been given contemporaneously herewith notifying the Governor of the State of Louisiana, the attorney general of the State of Louisiana, the Speaker of the House of Representatives, the President of the Senate and the State Register of the adoption of this Emergency Rule and reasons for adoption.

Effective Date and Duration

1. The effective date for this emergency rule shall be January 24, 2000.

2. The Emergency Rule herein adopted as a part thereof, shall remain effective for a period of not less than 120 days hereafter, or until the adoption of the final version of an Amendment to Statewide Order No. 29-B as noted herein, whichever occurs first.

Signed at Baton Rouge, Louisiana, this 24th day of January, 2000.

Philip N. Asprodites
Commissioner

0002#029

DECLARATION OF EMERGENCY

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

Light Geese Hunting Season

In accordance with the emergency provisions of R.S. 49:953B and 967D of the Administrative Procedure Act, and under the authority of R.S. 56:115, the Secretary of the Department of Wildlife and Fisheries acting on behalf of the Wildlife and Fisheries Commission hereby adopts the following Emergency Rule for special regulations concerning the taking of "light geese" (Snow, Blue and Ross geese).

Effective January 24-28 and January 30-March 12, 2000 in the East Waterfowl Hunting Zone and February 7-March 12, 2000 in the West Waterfowl Hunting Zones, all waterfowl hunting seasons will be closed and the taking of "light geese" will be permitted by regulations established

through the U.S. Fish and Wildlife Service Conservation Order which was effectuated by P.L. 106-108 effective November 24, 1999. Under the Conservation Order the following rules shall be in effect for the taking of "light geese" through March 12, 2000.

1. The use of electronic calls shall be legal.
2. Unplugged shotguns holding more than 3 shells will be legal.
3. There will be no daily or possession limits on numbers of light geese taken.
4. Shooting hours will be one-half hour before sunrise until one-half hour after sunset.

A Declaration of Emergency is necessary because the U.S. Fish and Wildlife Service has notified the states that the Conservation Order shall be available to the states in accordance with the Arctic Tundra Habitat Emergency Conservation Act (P.L. 106-108). The Conservation Order is being implemented in an attempt to alleviate catastrophic habitat and ecological problems associated with overabundant snow goose populations. This Declaration of Emergency is being promulgated to allow Louisiana the opportunity to assist with national and international management regimes designed to stem the continued expansion of snow goose populations.

The Youth Waterfowl Hunt in the East Zone shall proceed as originally promulgated by the Wildlife and Fisheries Commission.

James H. Jenkins, Jr.
Secretary

0002#003

DECLARATION OF EMERGENCY

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

Offshore Shrimp Season Closure

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall have the authority to open or close the state's offshore waters to shrimping, the Wildlife and Fisheries Commission hereby orders a closure to shrimping in that portion of the state's territorial waters, south of the Inside/Outside Shrimp Line as described in R.S. 56:495, from the Houma Navigational Canal Channel delineated by the Channel Buoy line to the eastern shore of Freshwater Bayou. This closure is effective at 6 a.m., Monday, February 7, 2000. The Commission also hereby orders that that portion of the state's territorial waters, south of the Inside/Outside Shrimp Line as described in R.S. 56:495, from the Houma Navigation Canal Channel as designated by the Channel Buoy line to the Atchafalaya River Ship Channel at Eugene Island as delineated by the Channel Buoy Line, shall reopen to shrimping at 6 a.m., on Monday, April 17, 2000.

R.S. 56:498 provides that the minimum legal count on white shrimp is 100 (whole shrimp) count per pound after the third Monday in December. Current biological sampling conducted by the Department of Wildlife and Fisheries has indicated that white shrimp in this portion of the state's outside waters do not average 100 count minimum legal size and are present in significant numbers. This action is being taken to protect these small white shrimp and allow them the opportunity to grow to a more valuable size.

The Wildlife and Fisheries Commission authorizes the Secretary of the Department of Wildlife and Fisheries to close to shrimping, if necessary to protect small white shrimp, any part of the remaining territorial waters, if

biological and technical data indicates the need to do so, and to reopen any area closed to shrimping when the closure is no longer necessary; and hereby authorizes the Secretary of the Department of Wildlife and Fisheries to open and close special seasons for the harvest of white shrimp in any portion of the state's inshore waters where such a season would not detrimentally impact small brown shrimp.

Thomas M. Gattle, Jr.
Chairman

0002#090

Rules

RULE

Department of Agriculture and Forestry Seed Commission

Fees; Bulk Certification Requirements
(LAC 7:XIII.143 and 147)

In accordance with the provisions of the Administrative Procedure Act, La. R.S. 49:950 et seq., The Department of Agriculture & Forestry, Office of the Louisiana Seed Commission, adopts the bulk certification requirements and fees assessed for bulk certification.

The Department of Agriculture and Forestry, Louisiana Seed Commission hereby amends these rules and regulations for the purpose of allowing rice seed to be certified in bulk as opposed to limiting rice seed certification to small containers.

These rules are enabled by R.S. 3:1433.

Title 7

AGRICULTURE AND ANIMALS

Part XIII. Seeds

Chapter 1. Louisiana Seed Law

§143. Fees

A. - E. ...

F. Fees for Bulk Seed Certification. The fee for issuance of a Bulk Certified Seed Sales Certificate shall be eight cents per hundred-weight.

G. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:566 (November 1982), amended LR 10:495 (July, 1984), repealed and readopted by the Department of Agriculture and Forestry, Seed Commission LR 12:825 (December 1986), amended LR 14:604 (September 1988), LR 16:847 (October 1990), LR 26:235 (February 2000).

§147. Bulk Certification Requirements

A. Limitations

1. Bulk certification shall be limited to the certified class of the following commodities:

- a. small grains (wheat and oats);
- b. rice.

2. - 3. ...

4. Seed certified in bulk shall only be sold by the applicant producer or by an approved retail facility. Each retail outlet must have an acceptable procedure for handling bulk certified seed to assure genetic purity and identity are maintained.

B. ...

C. Storage Requirements

1. A separate storage bin must be available for each variety that will be sold in bulk.

2. Storage bins must be constructed so that all bin openings can be sealed to prevent contamination and maintain genetic purity.

3. All bins must be clearly and prominently marked to show crop and variety, until disposal of the entire lot.

D. Sampling of Seed to be Certified in Bulk. Seed sampling shall be conducted as provided in §137.D, except that, at the option of the applicant, the sample to determine germination is drawn.

E. Certification

1. No certified seed tags will be issued for seed certified in bulk, except as provided by §147.F.

2. For sales to an approved retail facility within the state, a Bulk Certified Seed Transfer Form will be issued to cover all bulk certified seed which meets the general requirements for seed certification and the specific requirements for the crop/variety being certified.

a. The seller shall provide a copy of the Bulk Certified Seed Transfer Form to each purchaser at time of delivery.

b. The seller shall provide a copy of each issued Bulk Certified Seed Transfer Form to the Department of Agriculture and Forestry.

c. The seller shall maintain a copy of each issued Bulk Certified Seed Transfer Form in his file, which shall be available for examination by the Department of Agriculture and Forestry upon reasonable request.

3. For sales to its final disposition, a Bulk Certified Seed Sales Certificate will be issued to cover all bulk certified seed which meets the general requirements for seed certification and the requirements for the crop/variety being certified.

a. The seller shall provide a copy of the Bulk Certified Seed Sales Certificate to each purchaser at the time of delivery.

b. The seller shall provide a copy of each issued Bulk Certified Seed Sales Certificate to the Department of Agriculture and Forestry.

c. The seller shall maintain a copy of each issued Bulk Certified Seed Sales Certificate in his file, which shall be available for examination by the Department of Agriculture and Forestry upon reasonable request.

F. Subsequent Packaging of Seed Certified in Bulk

1. If the owner of seed certified in bulk later elects to package any remaining portion of the lot, the owner must give prior notification of his intention to package the seed to the Department of Agriculture and Forestry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and R.S. 3:1434.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:566 (November 1982), repealed and readopted LR 12:825 (December 1986), amended LR 23:1283 (October 1997), LR 26:235 (February 2000).

Bob Odom
Commissioner

0002#093

RULE

**Department of Economic Development
Office of Financial Institutions**

College Campus Credit Card Solicitation
(LAC 10:XVII.701)

Under the authority of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with the Campus Credit Card Solicitation Act, R.S. 9:3578.1 et seq., and specifically R.S. 9:3578.3, the Acting Commissioner of Financial Institutions hereby promulgates the following rule to implement the provisions of Act 1110 of 1999, to provide for the form to be used for the registration, by a credit card issuer, of its intent to engage in the solicitation of students on college campuses.

Title 10

**FINANCIAL INSTITUTIONS, CONSUMER CREDIT,
INVESTMENT SECURITIES AND UCC**

Part XVII. Miscellaneous Provisions

Chapter 7. College Campus Credit Card Solicitation

**§701. Form for Registration of Intent to Solicit
Students**

A. Purpose. This Chapter provides the form to be used by a credit card issuer for the registration of its intent to engage in the solicitation of students on college campuses.

B. Definitions. The definitions for the terms utilized in this Chapter are the same as those provided for in the definitions section of the College Campus Credit Card Solicitation Act, R.S. 9:3578.1, specifically R.S. 9:3578.2, and as follows.

Appropriate Official the president, chancellor, or chief management official of the institution of post-secondary education.

C. Form of Registration. The form of registration shall be a letter directed to the appropriate official of the institution of post-secondary education at which the credit card issuer intends to engage in the solicitation of students on college campuses. The letter shall contain, at a minimum the following:

1. the name and principal place of business of the credit card issuer;
2. the name, address, and telephone number of the contact person of the credit card issuer, who is responsible for the administration of its credit card solicitation program;
3. the date(s) on which the credit card issuer intends to have representatives on campus. (See R.S. 17:3351.2).

A new letter must be submitted by the credit card issuer upon the occurrence of any material change, including but not limited to a change in the contact person, in the information previously submitted to the institution of post-secondary education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:3578.3.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 26:236 (February 2000).

Doris B. Gunn
Acting Commissioner

0002#092

RULE

**Department of Economic Development
Office of the Secretary**

Economic Development Award Program (EDAP)
(LAC 13:III.Chapter 1)

The Department of Economic Development, Office of the Secretary, adopts the following rule in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and pursuant to the authority of R.S. 51:2341 et seq. The Department of Economic Development is in the process of codifying their rules preparatory to publishing the volume, LAC 13. Sections and Chapters have been renumbered and reordered

Title 13

ECONOMIC DEVELOPMENT

Part III. Financial Assistance Programs

**Chapter 1. Economic Development Award Program
(EDAP)**

§101. Purpose

The purpose of the program is to finance publicly owned infrastructure for industrial or business development projects that promote economic development and that require state assistance for basic infrastructure development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999), amended by the Department of Economic Development, Office of the Secretary, LR 25:405 (March 1999), amended by the Department of Economic Development, Office of the Secretary, LR 25:1659 (September 1999), LR 26:236 (February 2000).

§103. Definitions

Applicant the sponsoring entity requesting financial assistance from DED under this program.

Award funding approved under this program for eligible applicants.

Awardee an applicant [and/or company(ies)] receiving an award under this program.

Basic infrastructure refers to the construction, improvement or expansion of roadways, parking facilities, equipment, bridges, railroad spurs, water works, sewerage, buildings, ports, waterways and publicly owned or regulated utilities.

Company the business enterprise for which the project is being undertaken.

DED Louisiana Department of Economic Development.

Program the Economic Development Award Program.

Project an expansion, improvement and/or provision of basic infrastructure that promotes economic development, for which DED assistance is requested under this program as an incentive to influence a company's decision to locate in Louisiana, maintain or expand its Louisiana operations, or increase its capital investment in Louisiana.

Secretary the Secretary of the Department of Economic Development.

Sponsoring entity the public or quasi-public entity responsible for performing and/or overseeing implementation of the project and supervising the company's compliance with the terms and conditions of the award agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999), amended by the Department of Economic Development, Office of the Secretary, LR 25:405 (March 1999), amended by the Department of Economic Development, Office of the Secretary, LR 25:1659 (September 1999), LR 26:236 (February 2000).

§105. General Principles

A. The following principles will direct the administration of the Economic Development Award Program.

1. Awards are not to be construed as an entitlement for companies locating or located in Louisiana.

2. An award must reasonably be expected to be a significant factor in a company's location, investment and/or expansion decisions.

3. Awards must reasonably be demonstrated to result in the enhanced economic well-being of the state and local communities.

4. The retention and strengthening of existing businesses will be evaluated using the same procedures and with the same priority as the recruitment of new businesses to the state.

5. The anticipated economic benefits to the state will be considered in making the award.

6. Appropriate cost sharing among project beneficiaries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999), amended by the Department of Economic Development, Office of the Secretary, LR 25:405 (March 1999), amended by the Department of Economic Development, Office of the Secretary, LR 25:1659 (September 1999), LR 26:237 (February 2000).

§107. Eligibility

A. An eligible applicant for the Grant Award must be one of the following:

1. a public or quasi-public state entity; or
2. a political subdivision of the state.

B. A company shall be considered ineligible for this program if it has pending or outstanding claims or liabilities relative to failure or inability to pay its obligations; including state or federal taxes, or bankruptcy proceeding, or if it has pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit, or if company has another contract with the Department of Economic Development in which the company is in default and/or is not in compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic

Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999), LR 25:405 (March 1999), LR 25:1659 (September 1999), LR 26:237 (February 2000).

§109. Criteria

A. Job creation/retention

1. Projects must create or retain at least ten permanent jobs in Louisiana.

2. Number of jobs to be retained and/or created as stated in the application will be strictly adhered to and will be made an integral part of the contract.

B. Preference will be given to projects for industries identified by the state as target industries, and to projects located in areas of the state with high unemployment levels.

C. Preference will be given to projects intended to expand, improve or provide basic infrastructure supporting mixed use by the company and the surrounding community.

D. Companies must be in full compliance with all state and federal laws.

E. No assistance may be provided for Louisiana companies relocating their operations to another labor market area (as defined by the U.S. Census Bureau) within Louisiana, except when company gives sufficient evidence that it is otherwise likely to relocate out of Louisiana.

F. The minimum award request size shall be \$25,000.

G. Preference will be given for wages substantially above the prevailing regional wage.

H. If a company does not begin construction of the project within 365 calendar days after application approval, the secretary, at his discretion, may cancel funding for the project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999), LR 25:405 (March 1999), LR 25:1659 (September 1999), LR 26:237 (February 2000).

§111. Application Procedure

A. The sponsoring entity must submit an application on a form provided by DED which shall contain, but not be limited to, the following:

1. an overview of the company, its history, and the business climate in which it operates;

2. a description of the project along with the factors creating the need, including construction, operation and maintenance plans, and a timetable for the project's completion;

3. evidence of the number, types and compensation levels of jobs to be created or retained by the project;

4. any additional information the secretary may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999), LR 25:405 (March 1999), LR 25:1659 (September 1999), LR 26:237 (February 2000).

§113. Submission and Review Procedure

A. Applicants must submit their completed application to DED. Submitted applications will be reviewed and evaluated by DED staff. Input may be required from the applicant,

other divisions of the Department of Economic Development, and other state agencies as needed in order to:

1. evaluate the strategic importance of the project to the economic well-being of the state and local communities;
2. validate the information presented;
3. determine the overall feasibility of the company's plan.

B. An economic cost-benefit analysis of the project, including an analysis of the net economic and fiscal benefits to the state and local communities, will be prepared by DED.

C.1. Upon determination that an application meets the criteria for this program, DED staff will then make a recommendation to the secretary of the Department of Economic Development. The application will then be reviewed and approved by the following entities in the following order:

- a. the secretary of the Department of Economic Development;
- b. the Governor; and
- c. the Joint Legislative Committee on the budget.

2. The secretary can invoke emergency procedures and approve an application under the following conditions: The company documents in writing to the secretary of Economic Development with copies to the Governor and Chairman of the Joint Legislative Committee on the Budget that a serious time constraint exists and that a new plant, expansion or closure decision is to be made in fewer than 21 days or more than 31 days before the next scheduled meeting of the Joint Legislative Committee on the Budget.

D. The final 15 percent of the grant amount will not be paid until DED staff or its designee inspects the project to assure that all work in the EDAP contract has been completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999), LR 25:405 (March 1999), LR 25:1659 (September 1999), LR 26:238 (February 2000).

§115. General Award Provisions

A. Award Agreement. A contract will be executed between DED, the sponsoring entity and the company. The agreement will specify the performance objectives expected of the compan(ies) and the sponsoring entity and the compliance requirements to be enforced in exchange for state assistance, including, but not limited to, time lines for investment and job creation. Under the agreement, the sponsoring entity will oversee the progress of the project. DED will disburse funds to the sponsoring entity in a manner determined by DED.

B. Funding

1. Eligible project costs may include, but not be limited to, the following:

- a. engineering and architectural expenses;
- b. site acquisition;
- c. site preparation;
- d. construction expenses;
- e. building materials;
- f. capital equipment.

2. Project costs ineligible for award funds include, but are not limited to:

- a. recurrent expenses associated with the project (e.g., operation and maintenance costs);
- b. company moving expenses;
- c. expenses already approved for funding through the state's capital outlay process for which the Division of Administration and the Bond Commission have already approved a line of credit and the sale of bonds;
- d. improvements to privately-owned property, unless provisions are included in the project for the transfer of ownership to a public or quasi-public entity;
- e. refinancing of existing debt, public or private;
- f. furniture, fixtures, computers, consumables, transportation equipment, rolling stock or equipment with useful life of less than 7 years.

C. Amount of Award

1. The portion of the total project costs financed by the award may not exceed:

- a. ninety percent for projects located in parishes with per capita personal income below the median for all parishes; or
- b. seventy-five percent for projects in parishes with unemployment rates above the statewide average; or
- c. fifty percent for all other projects.
- d. Other state funds cannot be used as the match for EDAP funds.

e. All monitoring will be done by DED. A portion of the fiscal years' appropriation, up to 5 percent or a maximum of \$100,000, may be used by the DED to fund monitoring costs.

2. The award amount shall not exceed 25 percent of the total funds available to the program during a fiscal year.

3. The secretary, in his discretion, may limit the amount of awards to effect the best allocation of resources based upon the number of projects requiring funding and the availability of program funds.

D. Conditions for Disbursement of Funds

1. Grant award funds will be available to the sponsoring entity on a reimbursement basis following submission of required documentation to DED from the sponsoring entity.

2. Program funding source

a. If the program is funded through the state's general appropriations bill, only funds spent on the project after the secretary's approval will be considered eligible for reimbursement, contingent on the final approval by the Governor and the Joint Legislative Committee on the Budget.

b. If the program is funded through a capital outlay bill, eligible expenses cannot be incurred until a cooperative endeavor agreement (contract) has been agreed upon, signed and executed.

3. Award funds will not be available for disbursement until:

a. DED receives signed commitments by the project's other financing sources (public and private);

b. DED receives signed confirmation that all technical studies or other analyses (e.g., environmental or engineering studies), and licenses or permits needed prior to the start of the project have been completed or obtained;

c. all other closing conditions specified in the award agreement have been satisfied.

E. Compliance Requirements

1. Companies and sponsoring entities shall be required to submit progress reports, describing the progress towards the performance objectives specified in the award agreement. Progress reports by sponsoring entity shall include a review and certification of company's hiring records and the extent of company's compliance with contract employment commitments. Further, sponsoring entity shall oversee the timely submission of reporting requirements of the company to DED.

2. In the event a company or sponsoring entity fails to meet its performance objectives specified in its agreement with DED, DED shall retain the rights to withhold award funds, modify the terms and conditions of the award, and to reclaim disbursed funds from the company and/or sponsoring entity in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state.

3. In the event a company or sponsoring entity knowingly files a false statement in its application or in a progress report, the company or sponsoring entity shall be guilty of the offense of filing false public records and shall be subject to the penalty provided for in R.S. 14:133.

4. DED shall retain the right to require and/or conduct financial and performance audits of a project, including all relevant records and documents of the company and the sponsoring entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999), LR 25:405 (March 1999), LR 25:1659 (September 1999), LR 26:238 (February 2000).

§117. Public Safety Provision

The secretary may approve a request for funding for less than \$25,000 if the request involves the protection and enhancement of the safety of the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:36 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1638 (December 1997), LR 25:237 (February 1999), LR 25:405

(March 1999), LR 25:1659 (September 1999), LR 26:239 (February 2000).

Kevin P. Reilly
Secretary

0002#129

RULE

**Department of Economic Development
Office of the Secretary**

**Port Development Program
(LAC 13:III.Chapter 5)**

The Department of Economic Development, Office of the Secretary, adopts the following rule in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq. and pursuant to the authority of R.S. 39:112 and Acts 1998, No. 29, Section 1 of the regular session of the Legislature. The Department of Economic Development is in the process of codifying their rules preparatory to updating the volume, LAC 13. Sections and Chapters have been renumbered and reordered.

Title 13

ECONOMIC DEVELOPMENT

Part III. Financial Incentive Programs

Chapter 5. Port Development Program

§501. Purpose and Scope

The purpose of the program is to provide financial assistance to public port authorities for capital projects which improve or maintain waterborne commerce and intermodal port infrastructure. Under this program, the Department of Economic Development (DED) is authorized to accept and review applications from eligible port authorities for project assistance. Upon favorable evaluation and prioritization of individual projects by DED's review committee, recommendations may be made to the Secretary of Economic Development for funding qualified projects.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:1413 (October 1999), LR 25:1662 (September 1999), LR 26:239 (February 2000).

§503. Definitions

Applicant the sponsoring Louisiana port authority requesting financial assistance from DED under this program.

Award funding approved under this program for eligible applicants.

Awardee an applicant receiving an award under this program.

Capital Projects include any port infrastructure development project including land acquisition and attendant development costs.

Cash any asset on the port's records used for the project. Land's value will be determined by its appraised value.

DED Louisiana Department of Economic Development.

In-Kind any service, land or equipment, related to the project, donated to a port outside of its legal entity.

Intermodal Infrastructure Development refers to the provision of highway, rail, water or air access; and internal trans-loading or distribution facilities to property owned and maintained by a local port authority.

Program the Port Development Program.

Project Priority List a list of projects proposed by eligible applicants ranked for program funding by the Department of Economic Development.

Secretary the Secretary of the Department of Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:1413 (October 1999), LR 25:1662 (September 1999), LR 26:239 (February 2000).

§505. Program Objective

The objectives of this program are to develop and sustain the Louisiana ports and the navigable waterways system, particularly those infrastructures that improve efficiency of the system and contribute to the location of new industry, or expansion and retention of existing industry and employment within the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:1413 (October 1999), LR 25:1662 (September 1999), LR 26:240 (February 2000).

§507. Eligibility

All Louisiana public port authorities are eligible to participate in the program. However, port projects that are eligible for funding under the Port Construction and Development Priority Fund administered by the Department of Transportation and Development will not be eligible for funding under this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:1413 (October 1999), LR 25:1662 (September 1999), LR 26:240 (February 2000).

§509. Types of Projects

The types of projects funded under the program will include any type of port capital development projects, rehabilitation and maintenance, intermodal projects, land acquisition, site prep work and project feasibility studies that promote water transport and waterfront development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:1413 (October 1999), LR 25:1662 (September 1999), LR 26:240 (February 2000).

§511. Match

Each port authority will provide a match equal to at least 50 percent of the total cost of the project. The match may be

furnished in cash or in-kind. No state funds can be used as matching funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:1413 (October 1999), LR 25:1662 (September 1999), LR 26:240 (February 2000).

§513. Application Procedure

A. Port authorities sponsoring projects are expected to provide complete and verifiable information on the proposed projects. The project information supplied should be accurate and documented in order for the department to adequately assess the merits of the project and prepare a project priority list. The sponsoring port authority must submit an application on a form provided by the Department which will contain, but not be limited to the following:

1. a description of the proposed project including the nature and goals of the project, design and its major components. Justify the immediate need for the project;
2. indicate the total cost of the project. Also show the sources of funding and when they will be available;
3. provide construction, operation and maintenance plans, and a timetable for the project's completion;
4. any additional information the Secretary may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:1413 (October 1999), LR 25:1662 (September 1999), LR 26:240 (February 2000).

§515. Submission of Applications

Applications must be submitted to the DED by March 1 to be considered for funding for the following fiscal year. Two copies of the application with all attachments should be submitted to the Secretary of DED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:1413 (October 1999), LR 25:1662 (September 1999), LR 26:240 (February 2000).

§517. Criteria

A. Consideration will be given to projects which have completed preliminary planning work and ensure that the project is initiated within the funding year in which the project is approved.

B. Consideration will be given to the project's contribution to regional economic development.

C. Preference will be given to projects with high employment potential and payroll.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:1413 (October 1999), LR 25:1662 (September 1999), LR 26:240 (February 2000).

§519. Project Review Procedure

A. Submitted applications will be reviewed and evaluated by a DED review committee. The committee will prepare a list of projects for funding and, if necessary, input may be required from the applicant, other divisions of the

Department of Economic Development, and other state agencies as needed in order to:

1. evaluate the strategic importance of the project to the economic well-being of the state and local communities;
2. validate the information presented; and
3. determine the overall feasibility of the ports plan.

B. After evaluation the review committee will submit a list of projects recommended to be eligible for funding to the Secretary of the Department of Economic Development.

C. The Secretary of DED will have the final authority in funding any recommended project under this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:1413 (October 1999), LR 25:1662 (September 1999), LR 26:240 (February 2000).

§521. Funding

A port shall not be allocated in excess of 50 percent of the total appropriation as long as the appropriation does not exceed \$5 million. In the event the appropriation for the Port Development Program exceeds \$5 million, an individual award shall not exceed \$1 million each.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:1413 (October 1999), LR 25:1662 (September 1999), LR 26:241 (February 2000).

§523. Conditions for Disbursement of Funds

A. Grant award funds will be available to each port on a reimbursement basis following submission of required documentation to DED. Only funds spent on the project after the cooperative endeavor agreement (contract) has been agreed upon, signed and executed will be considered eligible for reimbursement.

B. Ports will be eligible for reimbursement of approved expenses up to 90 percent of the award amount. After all deliverables are completed according to the terms of the contract, the final 10 percent of the award will be made available for reimbursement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:1413 (October 1999), LR 25:1662 (September 1999), LR 26:241 (February 2000).

§525. Monitoring

All monitoring will be done by DED. A portion of the fiscal years' appropriation, up to 5 percent, not to exceed \$50,000, may be used by the DED to fund monitoring costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:112 and Acts 1998, No. 29, Section 1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 25:1413 (October 1999), LR 25:1662 (September 1999), LR 26:241 (February 2000).

Kevin P. Reilly, Sr.
Secretary

0002#131

RULE

Department of Economic Development Office of the Secretary

Workforce Development and Training Program (LAC 13:III.Chapter 3)

The Department of Economic Development, Office of the Secretary, adopts the following rule in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and pursuant to the authority of R.S. 51:2331, et seq., the Department of Economic Development is in the process of codifying their rules preparatory to publishing the volume, LAC 13. Sections and Chapters have been renumbered and reordered.

Title 13

ECONOMIC DEVELOPMENT

Part III. Financial Assistance Programs

Chapter 3. Workforce Development and Training Program

§301. Purpose

A. The purpose of the program is to develop and provide customized workforce training programs to existing and prospective Louisiana businesses as a means of:

1. improving the competitiveness and productivity of Louisiana's workforce and business community;
2. assisting Louisiana businesses in promoting employment stability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 25:405, LR 25:1664 (September 1999), LR 26:241 (February 2000).

§303. Definitions

Applicant the entity requesting training assistance from DED under this program.

Award funding approved under this program for eligible training activities.

Awardee an applicant (and/or company(ies)) receiving a training award under this program.

Contract a legally enforceable agreement between DED, the awardee and a sponsoring entity governing the terms and conditions of the training award.

Contractee the awardee and sponsoring entity that are party to a training award contract with DED under this program.

DED Department of Economic Development.

Program the Workforce Development and Training Program.

Secretary the secretary of the Department of Economic Development.

Sponsoring Entity the public or not for profit entity responsible for performing and/or overseeing implementation of the project and supervising the company's

compliance with the terms and conditions of the award agreement and for reimbursing the awardee for eligible training costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 25:405, LR 25:1664 (September 1999), LR 26:241 (February 2000).

§305. General Principles

A. The following principles will direct the administration of the Workforce Development and Training Program:

1. training awards are not to be construed as an entitlement for companies locating or located in Louisiana;

2. awards must reasonably be expected to be a significant factor in companies' location, investment, and/or expansion decisions;

3. awards must reasonably be demonstrated to result in the enhanced economic well-being of the state and local communities;

4. evaluations for the enhancement of existing Louisiana businesses that are adding locations within the state will be conducted with the same procedures and with the same priority as the recruitment of new businesses to the state;

5. the anticipated economic benefits to the state will be considered in making the award;

6. awards will be coordinated with the existing plans and programs of other government agencies whenever appropriate; and

7. a train-the-trainer approach will be adopted whenever appropriate in order to strengthen the institutional capacity of public and private sector training providers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 25:405, LR 25:1664 (September 1999), LR 26:242 (February 2000).

§307. Program Descriptions

A. This program provides two types of training assistance for companies seeking prospective employees who possess sufficient skills to perform the jobs to be created by the companies. The training to be funded can include:

1. pre-employment training for which prospective employees are identified and recruited for training with the knowledge that the company will hire a portion of the trainees;

2. on-the-job (and/or upgrade) training for employees that is needed to bring the employees up to a minimum skill and/or productivity level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 25:405, LR 25:1664 (September 1999), LR 26:242 (February 2000).

§309. Eligibility

A. An eligible applicant is an employer or community-based organization that seeks customized training services to provide training in a particular industry.

B. Employees to be trained must be employed in Louisiana, except for projects locating at Stennis Space Center in Mississippi. Employees to be trained for projects at Stennis Space Center must be Louisiana residents.

C. A company shall be considered ineligible for this program if it has pending or outstanding claims or liabilities relative to failure or inability to pay its obligations; including state or federal taxes, or bankruptcy proceeding, or if it has pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit, or if company has another contract with the Department of Economic Development in which the company is in default and/or is not in compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 25:405, LR 25:1664 (September 1999), LR 26:242 (February 2000).

§311. Criteria

A. General (these apply to all training programs administered under these rules)

1. Preference will be given to applicants in industries identified by the state as target industries, and to applicants locating in areas of the state with high unemployment levels.

2. Employer(s) must be in full compliance with Louisiana unemployment insurance laws.

3. If a company does not begin the project within 365 days of application approval, the secretary, at his discretion, may cancel funding of the training.

4. Number of jobs to be retained and/or created as stated in the application will be adhered to and will be made an integral part of the contract.

B. Pre-employment, Upgrade and On-the-Job Training

1. Applicants must create at least 10 net new jobs in the state, unless upgrade training is involved. Upgrade training must be provided to a minimum of 10 employees.

2. Participation in pre-employment training does not guarantee students a job upon completion of their training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 25:405, LR 25:1664 (September 1999), LR 26:242 (February 2000).

§313. Application Procedure

A. DED will provide a standard form which applicants will use to apply for assistance. The application form will contain, but not be limited to, detailed descriptions of the following:

1. an overview of the company, its history, and the business climate in which it operates;

2. the company's overall training plan, including a summary of the types and amounts of training to be provided and a description of how the company determined its need for training;

3. the specific training programs for which DED assistance is requested, including descriptions of the methods, providers and costs of the proposed training; and

4. any additional information the secretary may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 25:405, LR 25:1664 (September 1999), LR 26:242 (February 2000).

§315. Submission and Review Procedure

A. Applicants must submit their completed application to DED. Submitted applications will be reviewed and evaluated by DED staff. Input may be required from the applicant, other divisions of the Department of Economic Development, and other state agencies as needed, in order to:

1. evaluate the importance of the proposed training to the economic well-being of the state and local communities;

2. identify the availability of existing training programs which could be adapted to meet the employer's needs;

3. verify that the business will continue to operate during the period of the contract;

4. determine if employer's training plan is cost effective.

B. A cost-benefit analysis tailored to applicants' specific industries shall be conducted by DED to determine the net benefit to the state of the proposed training award.

C. Upon determination that an application meets the criteria for this program, DED staff will then make a recommendation to the Secretary of the Department of Economic Development. The application will then be reviewed and approved by the following entities in the following order:

1. the Secretary of the Department of Economic Development;

2. the Governor; and

3. the Joint Legislative Committee on the Budget.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 25:405, LR 25:1664 (September 1999), LR 26:243 (February 2000).

§317. General Award Provisions

A. Award Agreement

1. A contract will be executed between DED, the applicant (and/or company(ies) receiving training) and an appropriate sponsoring entity from the same geographic area as the applicant. The contract will specify the performance objectives expected of the company(ies) and the compliance requirements to be enforced in exchange for state assistance, including, but not limited to, time lines for job training and job creation.

2. DED will disburse funds to the sponsoring entity in a manner determined by DED.

3. The sponsoring entity will oversee the progress of the training and reimburse the applicant from cost reports

submitted by the applicant on a form approved by DED. DED, at its discretion, may request the sponsor to obtain additional information.

4. Funds may be used for training programs extending up to two years in duration.

5. Contracts issued under previous rules may be amended to reflect current regulations as of the date of the most recent change, upon request and approval of the contractor and the secretary.

B. Funding. Award may not exceed \$500,000 for total amount.

1. The Louisiana Workforce Development and Training Program offers financial assistance in the form of a grant for reimbursement of eligible training costs specified in the award agreement.

2. Eligible training costs may include the following:

a. instruction costs: wages for company trainers and training coordinators, Louisiana public and/or private school tuition, contracts for vendor trainers, training seminars;

b. travel costs: travel for trainers, training coordinators and trainees;

c. materials and supplies costs: training texts and manuals, audio/visual materials, raw materials for manufacturer's training purposes only and Computer Based Training (CBT) software; and

d. other costs: when necessary for training, such as facility rental.

3. Training costs ineligible for reimbursement include:

a. trainee wages and fringe benefits;

b. non-consumable tangible property (e.g., equipment, calculators, furniture, classroom fixtures, non-Computer Based Training (CBT) software), unless owned by a public training provider;

c. out-of-state, publicly supported schools;

d. employee handbooks;

e. scrap produced during training;

f. food, refreshments; and

g. awards.

4. Training activities eligible for funding consist of:

a. company-specific skills: skills which are unique to a company's workplace, equipment and/or capital investment;

b. quality standards skills: skills which are intended to increase the quality of a company's products and/or services and ensure compliance with accepted international and industrial quality standards (e.g., ISO standards); and

c. skills pertaining to instructional methods and techniques used by trainers (e.g., train-the-trainer activities).

C. Conditions for Disbursement of Funds

1. Funds will be available on a reimbursement basis following submission of required documentation to DED by sponsoring entity. Funds will not be available for reimbursement until a training agreement between the applicant (and/or company(ies) receiving the training), DED and sponsoring entity has been executed. Only funds spent on the project after the Secretary's approval will be considered eligible for reimbursement. However, reimbursement's can only be provided upon final execution of a contract with the Department of Economic Development.

2. Companies will be eligible for reimbursement at 90 percent until all contracted performance objectives have

been met. After the company has achieved 100 percent of its contracted performance objectives, the remaining 10 percent of the grant award will be made available for reimbursement.

D. Compliance Requirements

1. Contractees shall be required to complete quarterly reports describing progress toward the performance objectives specified in their contract with DED. Progress reports by sponsoring entity shall include a review and certification of company's hiring records and the extent of company's compliance with contract employment commitments. Further, sponsoring entity shall oversee the timely submission of reporting requirements of the company to DED.

2. The termination of employees during the contract period who have received program-funded training shall be for documented cause only, which shall include voluntary termination.

3. In the event a company or sponsoring entity fails to meet its performance objectives specified in its contract with DED, DED shall retain the rights to withhold award funds, modify the terms and conditions of the award, and to reclaim disbursed funds from the company and/or sponsoring entity in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state.

4. In the event a company or sponsoring entity knowingly files a false statement in its application or in a progress report, the company or sponsoring entity shall be guilty of the offense of filing false public records and shall be subject to the penalty provided for in La. R.S. 14:133.

5. DED shall retain the right to require and/or conduct financial and performance audits of a project, including all relevant records and documents of the company and the sponsoring entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 25:405, LR 25:1664 (September 1999), LR 26:243 (February 2000).

§319. Contract Monitoring

All monitoring will be done by DED. A portion of the fiscal years' appropriation, up to 5 percent or a maximum of \$200,000, may be used by the DED to fund monitoring costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:43 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1641 (December 1997), LR 25:243 (February 1999), LR 25:405, LR 25:1664 (September 1999), LR 26:244 (February 2000).

Kevin P. Reilly, Jr.
Secretary

0002#130

RULE

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School Administrators
Louisiana Educational Assessment Program (LEAP) (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 the Addendum in Bulletin 741, referenced in LAC 28:I.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). LEAP (Louisiana Education Assessment Program) is comprised of multiple components, including the LEAP Alternate Assessment. LEAP Alternate Assessment Participation Criteria is to be used by Individual Education Program (IEP) teams in documenting that a student meets the criteria for participation in LEAP Alternate Assessment. This document ensures that participation in LEAP Alternate Assessment is limited to those students for whom the alternate assessment is designed.

The LEAP Alternate Assessment Participation Criteria is designed to meet the requirement presented in the Regulations for the Individuals with Disabilities Education Act of 1997, Section 300.138 (b)(1), that the State or LEAP develops guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in State and district-wide assessment programs.

The reauthorization of the Individuals with Disabilities Education Act of 1997, Section 612 (a)(17)(A) requires that states conduct alternate assessments for those children who cannot participate in state- and district-wide assessment programs. R.S. 17:24.4 (F)(4) of Bill No. 251 enacted by the Legislature of Louisiana requires that alternate assessments (LEAP Alternate Assessment) be administered to certain students with disabilities who meet specific criteria developed by the Department of Education.

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

Bulletin 741C Louisiana Handbook for School Administrators

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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).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 23:560, 709, 1644 (May, June December 1997); LR 24:1495, 1085, 1896 (June, August, October 1998), LR 26:244 (February 2000).

Standard 1.009.03 Procedural Block

Louisiana Educational Assessment Program

Each school system shall participate in the Louisiana Educational Assessment Program.

LEAP Alternate Assessment Participation Criteria shall be used by Individual Education Program (IEP) teams to document that a student meets the criteria to participate in LEAP Alternate Assessment.

District-wide test results, but not scores or rankings of individual students, shall be reported to the local educational governing authority at least once a year at a regularly scheduled local educational governing authority meeting.

Systems shall not conduct any program of specific preparation of the students for the testing program by using the particular test to be administered therein.

Refer to R.S. 17:24.4 School Level, Proposed Policy

**Standard 2.009.03 Procedural Block
Louisiana Educational Assessment Program**

Schools, as part of the LEAP Alternate Assessment, shall ensure that student participation is documented on the LEAP Alternate Assessment Participation Criteria form as approved by the SBESE.

Refer to R.S. 17:24.4

Standard 3.087.11 Procedural Block Assessment

Schools, as part of the LEAP Alternate Assessment, shall ensure that student participation is documented on the LEAP Alternate Assessment Participation Criteria form as approved by the SBESE.

Refer to R.S. 17:24.4

Leap Alternate Assessment Participation Criteria

Student _____ DOB _____ School _____ I.D.# _____

A student eligible for participation in LEAP Alternate Assessment is one whose IEP reflects significant modifications of the general education curriculum with an emphasis on functional and life skills. A student participating in LEAP Alternate Assessment is progressing toward a Certificate of Achievement. To be eligible for participation in alternate assessment, the response to each of the statements below must be "Agree."

Circle "Agree" or "Disagree" for each item:

Agree Disagree The student cannot address the content assessed in statewide assessments, even with extensive

- | | | |
|-------|----------|--|
| Agree | Disagree | accommodations |
| Agree | Disagree | The results of the statewide large-scale assessments will not provide or have not provided an accurate assessment of the student's progress in the student's educational program. |
| Agree | Disagree | The student requires extensive instruction in multiple settings to acquire, maintain, and generalize skills necessary for application in school, work, home, and community environments. |
| Agree | Disagree | Current longitudinal data (e.g., classroom observations, task analyses, progress on IEP objectives, evaluation, and parental information) indicate the student should participate in alternate assessment. |
| Agree | Disagree | The student's demonstrated academic/cognitive ability limits his/her capability to complete the FULL requirements of the general education curriculum. |
| Agree | Disagree | The decision for LEAP Alternate Assessment is not solely based on the student's disability according to Bulletin 1508. |
| Agree | Disagree | The decision for LEAP Alternate Assessment is not solely based on the student's visual and/or auditory disability |
| Agree | Disagree | The decision for LEAP Alternate Assessment is not solely based on the student's emotional-behavioral disability. |
| Agree | Disagree | The decision for LEAP Alternate Assessment is not solely based on the student's physical and/or motor disability. |
| Agree | Disagree | The decision for LEAP Alternate Assessment is not solely based on the student's learning disability. |
| Agree | Disagree | The decision for LEAP Alternate Assessment is not solely based on excessive or extended absences. |
| Agree | Disagree | The decision for LEAP Alternate Assessment is not solely based on social, cultural, and/or economic differences. |
| Agree | Disagree | The decision for LEAP Alternate Assessment is an IEP Committee decision, rather than an administrative decision. |

Committee Decision: _____ is eligible for participation in LEAP Alternate Assessment.
 Committee Decision: _____ is not eligible for participation in LEAP Alternate Assessment.

IEP Participants (Signatures)	Date: _____
_____	_____
Name/Position	Name/Position
_____	_____
Name/Position	Name/Position
_____	_____
Name/Position	Name/Position

Revised July 22, 1999

Weegie Peabody
Executive Director

0002#060

RULE

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School Administrators Louisiana School and District Accountability System Appeal/Waiver Procedure (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 School Accountability System was promulgated as a Rule in the June, 1999 issue of the *Louisiana Register*. The Accountability standards are being amended to add Standard 2.006.13 which includes an appeal/waiver procedure that shall be used to address unforeseen and aberrant factors impacting schools in Louisiana.

**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.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 24:1085 (June 1998), LR 25:108 (January 1999), LR 26:246 (February 2000).

**The Louisiana School And District Accountability System
Appeals Procedures**

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

There shall be two administrative bodies empowered by SBESE to manage the appeal/waiver process of the Louisiana School and District Accountability System: the Louisiana Department of Education Interdepartmental Review Committee and the Accountability Advisory Committee.

The Interdepartmental Review Committee approves appeal/waiver requests or makes recommendations to the SBESE concerning issues from local educational boards of education that deviate from policies associated with the Louisiana District and School Accountability System.

The Accountability Advisory Committee serves as an independent agent whose function is to make recommendations to the SBESE regarding claims filed by aggrieved parties after they have been heard by the Interdepartmental Review Committee.

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

Criteria for Appeal

1. The student population in a school significantly increases by greater than or equal to ten percent as a result of students transferring into the school from outside of the district (Ref. 2.006.14)
2. A school's (K-12) grade structure and/or size (enrollment) is significantly reconfigured by fifty percent or more from the previous academic year (Ref. 2.006.16).
3. An Alternative School in Option I changes to Option II by petitioning SBESE and meeting the eligibility requirements outlined in Bulletin 741, Section 2.006.14.
4. An Alternative School in Option II changes to Option I by petitioning SBESE because the aforementioned school no longer meets the eligibility requirements outlined in Bulletin 741, Section 1.006.14.
5. An Alternative School that is placed in Option I status because of a lack of testing units but desires to be placed in Option II status. (Applicable for school year 1999-2000 only.)
6. As a result of redistricting or other significant enrollment changes, a school is paired or shared with another school (Ref. 2006.15).
7. A *paired* school's enrollment has significantly changed by fifty percent or more from the previous academic year and/or has been involved with redistricting by the local governing board or education (Ref. 2.006.15).
8. A shared school's enrollment has significantly changed by fifty percent or more from the previous academic year and/or has been involved with redistricting by the local governing board of education (Ref. 2.006.15).

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

Criteria for Waiver

1. The recalculated SPS baseline of a school changes by five points (+/-5) as a result of a significant change of ten percent or more in the student population because of students' transferring into the school from outside of the district (Ref. 2.006.14).
2. A school's grade structure and/or size (enrollment) is changed less than fifty percent but more than twenty-five percent from the previous academic year because of reconfiguration (Ref. 2.006.16).
3. Factors beyond the reasonable control of the local governing board of education and also beyond the reasonable control of the school.
4. The student body of the school (Pre-K through K-2) comprises primarily Pre-K and K students (greater than fifty percent of the total student membership) and has

no systematic "feeding" pattern into another school or schools by which it could be "paired" (Ref. 2.006.15). A feeding pattern is defined as the plan used by local governing boards of education to transfer students from one school to another for educational services as a result of pupil progression into higher grades.

5. A school lacks the statistically significant number of testing units for the CRT (40 units) and NRT (20 units) necessary to calculate the SPS and has no systematic "feeding" pattern into another school by which data could be "shared" (Ref. 2.006.15) because the school is:

- a Lab School;
- a Type 1, 2, or 3 Charter School;
- operated by the Department of Corrections; or
- beyond the sovereign borders of Louisiana;
- an SSD #1 or #2 school;
- a BESE school;
- non-diploma bound.

General Guidelines: Parent/School-Level Requests
Parents or individual schools seeking an appeal or waiver on issues relating to Louisiana's District and School Accountability System shall file their requests, regardless of the type, through the superintendent or an appointed representative authorized by the local governing board of education.

General Guidelines: Local Board of Education-Level Requests
The superintendent, or official representative, of each local governing board of education shall complete the LDE's Appeals/Waivers Request Form and provide supporting documentation to the Division of School Standards, Accountability, and Assistance no later than 30 calendar days after the official release of the School Performance Scores in the fall of each year. Data corrections shall not be grounds for an appeal or waiver request unless (a) evidence attributes data errors to the LDE and/or those contractors used for the student assessment program, and (b) a change results in the Performance Label, Growth Label or Corrective Actions status. Requests concerning either the inclusion or exclusion of special education student score in the calculations of a school's SPS and Growth Target, except as outlined in Bulletin 741, shall not be considered by the LDE. Supporting documentation for appeal/waiver requests should clearly outline those data that are erroneous. Further, computations by the local board of education's officials should provide evidence that the school's SPS is significantly affected by the data in question and such a change results in a different Performance and/or Growth label. Additional information may be required by the LDE to support an appeal or waiver.

Weegie Peabody
Executive Director

0002#061

RULE

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School AdministratorsC State Standards for Locally Initiated Electives (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 amendment establishes State Standards for Locally-Initiated Electives and grants local education agencies authority to approve elective courses that meet said standards.

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. 17:3761-3764.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975), amended LR 26:247 (February 2000).

ADD: Standard 1.090.10 Adding Elective/Exploratories to the Program of Studies

Standard 1.090.10

A school system choosing to add an elective/exploratory course to its program of studies shall establish policy and procedures for reviewing and approving courses that meet State Standards for Locally-Initiated Electives as established by the State Board of Elementary and Secondary Education.

REVISE: Standards 1.090.11 and 1.090.12

Standard 1.090.11

Locally-initiated electives shall support the standards-based initiatives and include the key components addressed in the content standards documents.

Electives shall support the mission of the standards-based initiatives: "to develop rigorous and challenging standards that will enable all Louisiana students to become lifelong learners and productive citizens for the 21st century;"

Electives shall incorporate the Foundation Skills of the State Content Standards (Communication, Problem Solving, Resource Access and Utilization, Linking and Generating Knowledge, and Citizenship);

Electives shall expand, enhance, and/or refine Mathematics, Science, Social Studies, English Language Arts, Foreign Language, the Arts, Business Education, Agriscience/Agribusiness State Standards and those standards approved by the State Board of Elementary and Secondary Education (SBESE) for other content areas.

Standard 1.090.12

Electives shall comply with all policies set forth by the SBESE as stated in current *Louisiana Handbook for School Administrators: Bulletin 741*.

ADD: Standards 1.090.13-1.090.15

Standard 1.090.13

A school system shall develop a process for approving elective courses. This process shall ensure alignment with the standards-based initiatives, compliance with current *Bulletin 741*, and all laws and regulations pertaining to students with disabilities.

Electives shall enhance, expand, and/or refine the core curriculum. Elective courses shall not replace, duplicate, or significantly overlap the content of core curriculum or other approved electives;

Electives shall meet specific curriculum goals of the district;

Electives shall include challenging content that requires students to extend the knowledge and skills acquired through the core curriculum;

Electives shall provide a variety of activities and hands-on learning experiences that accommodate different learning styles;

Electives shall include appropriate accommodations for addressing specific instructional and assessment needs of students with disabilities, students who are linguistically and/or culturally diverse, and students who are gifted and talented;

Electives shall incorporate assessment strategies that support statewide assessments.

ADD: Standard 1.090.14

Standard 1.090.14

A school system shall maintain records of all approved electives and submit reports to the department.

All approved electives shall be submitted to the department thirty days prior to implementation (submissions may be made electronically).

A school system shall submit a statement of assurance that approved electives meet State Standards for Locally-Initiated Electives as established by the State Board of Elementary and Secondary Education.

A school system shall maintain records of electives that include: a rationale for the course, a detailed content outline, certification of the instructor, Carnegie unit credit, prerequisites for the course, a plan for assessing students, a plan for assessing the course, and the dates of implementation.

ADD: Standard 1.090.15

Standard 1.090.15

Electives shall comply with all state and federal constitutional, statutory, and regulatory guidelines and requirements.

A school system shall be responsible for seeking legal counsel to ensure that elective course content meets the standards set herein.

The Board of Elementary and Secondary Education reserves the authority to require local school systems to submit documentation regarding the course content, approval process, and/or course evaluation of any approved elective. The board further reserves the right to rescind local authority to approve electives for a school system not in compliance with Standards for Locally-Initiated Electives.

REVISE: Standard 1.105.37 Adding Elective Courses to the Program of Studies

Standard 1.105.37

A school system choosing to add an elective/exploratory course to its program of studies shall establish policy and procedures for reviewing and approving courses that meet State Standards for Locally-Initiated Electives as established by the State Board of Elementary and Secondary Education.

Refer to Standards 1.090.11-15 for State Standards for Locally-Initiated Electives.

DELETE: Standard 1.105.39

Weegie Peabody
Executive Director

0002#062

RULE

Board of Elementary and Secondary Education

Bulletin 921c Policy and Procedure Manual for the Louisiana Quality Education Support Fundc 8(g) (LAC 28:1.921)

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 921 referenced in LAC 28:1.921.A, promulgated by the Board of Elementary and Secondary Education in LR 14:10 (January 1988). The proposed amendment amends the appointment categories of the 8(g) Advisory Council, referenced in Section IV, Part 100, Section 101 of the Bulletin.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§921. Quality Education Support Fundc 8(g)

A. Bulletin 921

AUTHORITY NOTE: Promulgated by the Board of Elementary and Secondary Education in accordance with 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 14:10 (January 1988), amended LR 26:248 (February 2000).

Categories 1 - 11

1. District Supervisor who has served as a Project Administrator of one or more 8(g) projects that received an evaluation score of 28 or higher
2. 8(g) Program Evaluator with a minimum of three years experience with 8(g) projects
3. LEA System Grant Writer with a minimum of three years experience
4. A Secondary Principal who has been a district finalist in the Principal of the Year Program within the last three years
5. A Secondary Teacher who has been a district finalist in the Teacher of the Year Program within the last three years

6. An Elementary Principal who has been a district finalist in the Principal of the Year Program within the last three years

7. An Elementary Teacher who has been a district finalist in the Teacher of the Year Program within the last three years

8. A Representative of Non-Public Schools

9. A Representative of Organized Labor

10. A Representative of Business

11. Public LEA Superintendent

Weegie Peabody
Executive Director

0002#059

RULE

Board of Elementary and Secondary Education

Bulletin 1903 Education of Dyslexic Students (LAC 28:XXXV.Chapters 1-13)

[Editor's Note: Bulletin 1903 was adopted in LR 18:1249 (November 1992), amended LR 19:1417 (November 1993), LR 20:284 (March 1994), and LR 20:647 (June 1994). This present revision is being published in codified form, hence historical notes will reflect a history, by section, from this time forward.]

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., the State Board of Elementary and Secondary Education adopted revised Bulletin 1903 promulgated in LR 18:1249 (November 1992), referenced in LAC 28:J.902.A. The Bulletin is revised to incorporate both R.S. 17:7(11) and R.S. 17:7(11)(B) into one document and clarifies language so that school districts will find it easier to use. The present Bulletin is being repealed and promulgated as a codified document.

Title 28 EDUCATION

Part XXXV. Regulations and Guidelines for the Implementation of the Louisiana Law for the Education of Dyslexic Students

Chapter 1. Forward

§101. Forward

A. It is vital that our state provide an opportunity for all students to reach their maximum potential. This publication represents a major step forward in the implementation of R.S. 17:7(11), Louisiana's law for identification and services within the regular education program for students demonstrating characteristics of dyslexia.

B. Act 854 of the 1990 Regular Legislative Session [R.S. 17:7(11)] requires that the State Board of Elementary and Secondary Education:

1. provide for the screening and assessment of certain students for characteristics of dyslexia and related disorders;
2. that the Board provide duties for local school boards;
3. that the Board provide for the remediation of any student determined to have characteristics of dyslexia or a related disorder;
4. that the Board provide definitions;

5. and that the Board provide guidelines and standards for the implementation of the law.

C. Many of the characteristics associated with dyslexia are found in children with other specific learning disabilities or with speech and spoken language disorders. Some of the characteristics may be present in certain young children in the course of normal development. When these characteristics are not age-appropriate and interfere with learning, they may be symptoms of a language or learning disorder, including dyslexia, and the child may need specialized instruction in academic or related areas.

D. To fulfill the mandates of this law, in 1990, the Louisiana Department of Education convened planning groups comprised of parents, educators, and related professional and parent association representatives. Numerous areas of education were represented, including Elementary and Secondary Education, Student Services, Chapter 1, Pupil Accountability, Teacher Certification, and Special Education. This planning group reviewed current research findings and evaluation procedures as well as programs used in other states and districts. As a result, this planning group developed Bulletin 1903 that included a five-step process for the evaluation and determination of programs for students suspected of having this disability.

E. This bulletin was reviewed and revised in 1993 to reflect changes made in the law. A third review was completed in 1999 by a group which included parents, educational diagnosticians, school psychologists, speech/language pathologists, reading specialists, and other educators in regular and special education.

F. Louisiana is committed to providing a free and appropriate education for all students, regardless of the severity or type of disability. The State Board of Elementary and Secondary Education and the Department of Education are grateful to those persons who have worked so diligently to formulate these regulations and guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:249 (February 2000).

§103. State Board of Elementary and Secondary Education

- A. Ms. Glenny Lee Buquet, President
Third BESE District
- B. Mr. Clifford Baker, Vice President
Eighth BESE District
- C. Mr. Keith Johnson, Secretary-Treasurer
Second BESE District
- D. Ms. Donna Contois
First BESE District
- E. Mr. Walter Lee
Fourth BESE District
- F. Dr. James Stafford
Fifth BESE District
- G. Dr. Richard Musement
Sixth BESE District
- H. Mr. John Bertrand
Seventh BESE District
- I. Mr. Gerald Dill
Member-at-Large
- J. Ms. Leslie Jacobs
Member-at-Large

K. Mr. Paul Pastorek
Member-at-Large

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:249 (February 2000).

Chapter 3. General Provisions

§301. The Louisiana Law for the Education of

Dyslexic Students

A. Added by Acts 1990, No. 854. 1, amended by Acts 1992, No. 1120. 1, effective July 14, 1992. To enact R.S. 17:7(11), relative to the duties, functions, and responsibilities of the State Board of Elementary and Secondary Education; to require the State Board of Elementary and Secondary Education to provide for testing of certain students for dyslexia and related disorders; to provide duties for local school boards: to provide remediation of any student determined to have dyslexia or a related disorder; to provide definitions; to provide guide lines and standards: and to provide for related matters. Be it enacted by the legislature of Louisiana:

1. Section 1. R.S. 17:7(11) is hereby enacted to read as follows: ' 7. Duties, functions, and responsibilities of the board.

2. In addition to the authorities granted by R.S. 17:6 and any powers, duties, and responsibilities vested by any other applicable laws, the board shall:

a. adopt and provide for the implementation of a program under which students enrolled or enrolling in public schools in this state are tested for dyslexia and related disorders as may be necessary. Such program shall conform to the criteria and minimum standards established by the Council for Learning Disabilities. The program shall provide that upon the request of a parent, student, school nurse, classroom teacher, or other school personnel who has reason to believe that a student has a need to be tested for dyslexia, such student shall be referred to the school building level committee for review and referral to pupil appraisal for appropriate services;

b. in accordance with the program adopted by the board, the city and parish school boards shall provide remediation for children with dyslexia or related disorders in an appropriate multi-sensory, intensive phonetic, synthetic to analytic phonics, linguistic, meaning based, systematic, language-based regular education program. For those students who are not dyslexic and who do not qualify for special education services, other appropriate programs shall be offered to remediate their particular physical or educational disorders;

c. the state Department of Education, by not later than January 31, 1991, shall make recommendations to the board for the delivery and funding of services to students who are identified as dyslexic, but do not qualify for services under the criteria of eligibility of Bulletin 1508, the Pupil Appraisal Handbook;

d. for the purposes of this Paragraph:

i. *Dyslexia* shall be defined as a language processing disorder which may be manifested by difficulty processing expressive or receptive, oral or written, language despite adequate intelligence, educational exposure, and cultural opportunity. Specific manifestations may occur in one or more areas, including difficulty with the alphabet, reading, comprehension, writing, and spelling.

ii. *Related Disorders* shall include disorders similar to or related to dyslexia such as developmental auditory imperception, dysphasia, specific developmental dyslexia, developmental dysgraphia, and developmental spelling disability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:250 (February 2000).

§303. Preface

A. Federal Requirements and Eligibility for Services

1. The Department of Education and Local Education Agencies (LEAs) have an obligation to provide for the evaluation of a child suspected of having a disability. The evaluation shall determine the child's need for specialized instruction and related services. Children with disabilities including dyslexia may qualify for educational and related services under Individuals with Disabilities Education Act (IDEA Public Law 105-17) and/or under the Section 504 of the Rehabilitation Act of 1973.

2. Federal laws require that recipients that operate a public elementary or secondary education program address the needs of children considered "disabled persons" as adequately as they address the needs of non-disabled persons. No disabled person shall, on the basis of the disability, be excluded from participation in, or denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from federal financial assistance.

3. Both federal laws require that an LEA provide a free, appropriate public education to each qualified child with a disability regardless of the nature or severity of the person's disability. A free, appropriate public education, under Section 504, consists of regular or special education and related aids and services designed to meet the individual educational needs as adequately as the needs of non-disabled persons are met and are based on adherence to the regulatory requirements for educational setting, evaluation and placement, and procedural safeguards. A student may be disabled within the meaning of Section 504 and therefore entitled to regular or specialized education and related aids and services, even though the student may not be eligible for special education and services under IDEA.

B. State Requirements and Eligibility for Services

1. Act 854 of the 1990 Regular Legislative Session [R.S. 17:7(11)] defines *dyslexia* as a "language processing disorder which may be manifested by difficulty processing expressive or receptive, oral or written language despite adequate intelligence, educational exposure, and cultural opportunity." Specific manifestations may occur in one or more areas, including difficulty with the alphabet, reading, comprehension, writing, and spelling.

2. The law also identifies *related disorders* as "disorders similar to or related to dyslexia such as developmental auditory imperception, dysphasia, specific developmental dyslexia, developmental dysgraphia and developmental spelling disability."

3. The law requires that the State Board of Elementary and Secondary Education provide for testing of certain students for characteristics of dyslexia and related disorders, that the Board provide duties for local school boards, that the Board provide for remediation of any student determined to have dyslexia or a related disorder, that the Board provide

definitions, and that the Board provide guidelines and standards for the implementation of the law, and to provide for related matters.

4. Local Education Agencies must adhere to the process contained within this Bulletin for assessment and placement for students suspected of having characteristics of dyslexia. Adherence to these guidelines will provide for consistency in the implementation of these laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:250 (February 2000).

Chapter 5. Implementation of R.S. 17:7(11)

§501. Guidelines for the Implementation of RS 17:7 (11)

A. Introduction to Guidelines

1. This copy of the *Guidelines for Implementation of the Louisiana Law for the Education of Dyslexic Students* [R.S. 17:7(11)] is provided so that LEAs will have a reference for understanding the ramifications, regulations, and school system guidelines for identifying and providing appropriate educational opportunities for the students of Louisiana with characteristics of dyslexia.

2. The *Guide* is being distributed to all local school systems and is available from the Department of Education. It was prepared with the following principal in mind.

a. Though students with characteristics of dyslexia have unique and often challenging educational needs, they also have potential to make important contributions to our society. Their special learning needs should and must be addressed by the public school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:251 (February 2000).

§503. School System and School Building Responsibilities

A. According to R. S. 17:7(11), each school system and each school building within a system has specific responsibilities for the implementation of the law.

1. School System Responsibilities:

a. to create and adopt school system policies and procedures for implementation of the law in accordance with *Bulletin 741*;

b. to assure ongoing public notice regarding the system's obligations toward students with characteristics of dyslexia;

c. to provide informational training about dyslexia for system representatives, teachers, and administrators on an annual basis;

d. to assure that each school within the system selects personnel to oversee the assessment process for determination of program eligibility;

e. to assure that programs for students with characteristics of dyslexia meet the state criteria and follow the guidelines;

f. to assure that each school within the system follows the regulations for implementation of the law by providing for the academic needs of students identified as having characteristics of dyslexia or related disorders.

2. School Building Responsibilities:

a. to select a school building level committee knowledgeable about the student and the persons who will oversee the assessment and programming process;

b. to select a chairperson of the committee who will be responsible for gathering information, maintaining records, calling meetings, monitoring progress, disseminating information to the committee, teachers and parents, and overseeing all other aspects of implementation of R. S. 17:7(11);

c. to assure that teachers are aware of the state regulations regarding dyslexia, the characteristics of dyslexia, and the school system's policies for implementation of the assessment and programming process;

d. to provide training so that teachers are knowledgeable about and can implement specialized instructional interventions and strategies for students with characteristics of dyslexia within the regular classroom;

e. to plan for and implement a program for students identified as demonstrating characteristics of dyslexia according to the assessment and programming process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:251 (February 2000).

§505. Requirements for Implementation of R. S. 17:7(11)

A. Since the fall of 1992 and thereafter, school systems are required to have implemented all aspects of R.S. 17:7(11). According to the revised Bulletin 1903, each LEA will:

1. continue public notice regarding the system's obligations toward students with characteristics of dyslexia and give notice of the school system's specific implementation plan;

2. will ensure that teachers and administrators are aware of the state regulations regarding dyslexia, the characteristics of dyslexia, and the school system's policies for implementation of the law;

3. provide training so that teachers are knowledgeable about and can implement Multisensory Structured Language Programs and instruction for students with characteristics of dyslexia within the classroom;

4. implement a program for students identified as having characteristics of dyslexia.

B. Factors which may contribute to the characteristics of dyslexia are as follows:

1. family history of similar problems;

2. late in learning to talk;

3. receptive language skills are typically better than expressive;

4. difficulty in processing both oral and written language. May also affect foreign language acquisition;

5. difficulty in learning to write the alphabet correctly in sequence;

6. cramped or illegible handwriting;

7. late in establishing preferred hand for writing;

8. late in learning right and left and other directionality components: e.g., up-down, front-behind, over-under, east-west and others;

9. problems in learning the concept of time and temporal sequencing: e.g., yesterday, tomorrow, days of the week, and months of the year;

10. reversal of letters or sequences of letters that are not developmentally appropriate;

11. difficulty in learning to decode and comprehend age appropriate written information;

12. slow reading speed;

13. difficulty learning sound-letter correspondence;

14. difficulty in learning and remembering printed words;

15. repeated erratic spelling errors;

16. error proneness in reading;

17. word substitutions in oral reading;

18. difficulty identifying, blending, segmenting and manipulating phonemes; and

19. losing ground on achievement or intelligence tests.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:251 (February 2000).

§507. Decision Process for Dyslexia Intervention, Identification, and Placement

A. SBLC Data Gathering

B. SBLC Intervention Options/Remedial Strategies:

1. assess student for characteristics of dyslexia;

2. continuation of specialized instructional interventions and strategies that were successful. Documentation shall remain in the student's cumulative records. The assessment process for dyslexia may be terminated at this point if the Committee, including the parent, is in agreement;

3. if a student is suspected of having a disabling condition under the IDEA, the student shall be referred for an individual evaluation to determine eligibility for special educational services;

4. determine that the child's needs can be met in the regular classroom without further strategies interventions, for the present time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:252 (February 2000).

Chapter 7. Assessment

§701. Assessment Procedures

A. Request for Assistance from the school Building Level Committee

1. A written request may be made to the school building level committee for assistance in addressing a student's educational progress if school personnel (principal, guidance counselor, teacher, school nurse, etc.), the parent/guardian, community agency personnel or the student has reason to believe that the student is *consistently struggling or having difficulty making expected progress*. This request for assistance documents the beginning of the 60 operational day time line allowed to complete an assessment for characteristics of dyslexia and program implementation, if deemed necessary.

B. Formation of a Committee of Knowledgeable Persons About the Student and Dyslexia

1. Each campus must establish a committee of knowledgeable persons to conduct referral and assessment activities. The group shall be referred to as the Committee.

2. The committee must be comprised of at least these members:

a. the student's teacher; and

b. two other professional persons knowledgeable about the student and/or the suspected condition in the individual school setting, including the following:

i. reading specialist;

ii. guidance counselor;

iii. speech/language pathologist;

iv. curriculum specialist in language arts;

v. teachers certified in reading, language arts, special education, elementary education, or secondary education;

vi. certified school psychologist;

vii. educational diagnostician;

viii. occupational therapist;

ix. screening specialists, [according to *Regulations for the Implementation of Act 1120* R.S. 17:392.1 & 392.3]; and

x. school social worker.

C. Data Gathering and Review

1. Upon request, the first action by the Committee shall be to gather data about the student and to establish a profile of the total child from the standpoint of school and home.

2. Data gathered will include, but not be limited to, the following:

a. health information;

i. vision and hearing screening (current within 24 months); and

ii. medical/health history;

b. academic, cognitive, and behavioral information;

i. cumulative record review;

ii. academic progress reports;

iii. teacher reports of aptitude, behavior, and concerns;

iv. CRT/NRT and/or any other standardized test scores;

v. informal testing, such as curriculum-based assessment;

vi. types of interventions used in the regular program;

vii. samples of the student's work; and

viii. achievement motivation information;

c. speech and language information (including assessment of phonological awareness);

d. additional information from the parents and other sources, (e.g., the student's need for extensive outside help and the extent of student effort, etc.);

e. documentation of the use of pre-referral specialized instructional interventions and strategies used with the student;

D. Instructional Interventions and Strategies

Note: If extensive specialized instructional interventions and strategies have been implemented and documented, the Committee may proceed to the choice of options below.

1. Additional specialized instructional interventions and strategies to be implemented in the education setting should be recommended by the Committee for the student.

2. Intervention results shall be recorded and reported to the Committee. The Committee will choose one of the four options below:

a. assess student for characteristics of dyslexia; or

b. continuation of specialized instructional interventions and strategies that were successful. Documentation shall remain in the student's cumulative records. The assessment process for dyslexia may be terminated at this point if the committee, including the parent, is in agreement; or

c. if a student is suspected of having a disabling condition under the IDEA, the student shall be referred for an individual evaluation to determine eligibility for special educational services; or

d. determine that the child's needs can be met in the regular classroom without further strategies or interventions, for the present time.

Note: Because the characteristics of dyslexia may not be currently evident and may emerge at a later date, this decision-making process may be repeated based on a student's need.

E. Procedural Safeguards For Assessment

1. An assessment plan shall be developed by the Committee. Documentation shall be kept on the assessment plan and subsequent activities.

2. The parent shall be contacted and informed about the assessment. Informed consent (permission) for assessment is required, and all rights of the parents must be explained.

3. The assessment procedures shall be conducted by appropriately trained local education agency (LEA) personnel as described in the assessment plan.

4. The assessment shall include multi-source data and shall be conducted with valid and reliable instruments. Tests and other assessment materials must have been validated for the specific purpose for which they are used and must be administered in conformance with the instructions provided by their producer [34 CFR 104.35 (b) 1-3].

5. Tests and other assessment materials must include those tailored to assess specific areas of educational need, not those designed merely to provide a single intelligence quotient.

6. Tests shall be selected and administered to ensure that the results accurately reflect the student's aptitude or achievement level rather than reflect only the student's impaired skills (except where those skills are the factors the test purports to measure). Careful attention must be given to test selection and administration for students with impaired sensory, manual, or speaking skills.

7. Tests and other assessment procedures and materials shall be used in such a manner as to be free of racial, cultural, language, or sex bias.

8. A written notice of findings, signed by the Committee, shall be given to the parents and a copy shall be maintained in the student's cumulative folder.

9. A referral to Pupil Appraisal Services is required if, during the assessment process, disabling conditions (including a specific learning disability such as dyslexia) under IDEA is suspected.

F. Required Components of the Assessment

1. A review of data gathered and relevant information provided from other sources.

Note: Any private evaluation presented by the parent must be considered by the school system's pupil appraisal staff for review and interpretation within 10 operational days.

2. A review/assessment of cognitive ability.

3. An Assessment of Language Skills

a. Phonological Awareness

b. Receptive and Expressive Language

- i. Listening
- ii. Oral Expression (word finding, sequencing, etc.)

- iii. Written Expression (spelling, mechanics, coherence, etc.)

- iv. Dysgraphia

- v. Reading (real word and non word (nonsense word) word attack skills, reading comprehension, and reading rate)

c. An Assessment of Mathematics Skills

- i. Computation

- ii. Word Problems

d. A Review/Assessment of General Behavioral Characteristics

- i. Attention Span

- ii. Self-Esteem

- iii. Social Skills

- iv. Other

e. A Family Interview

- i. Family History (including that of the student) of reading or other language-based learning difficulties such as dyslexia

- ii. Extent of Assistance Provided to the Student Outside of School

- iii. Extraordinary Effort of the Student

G. Determination of Program Eligibility

1. A student shall be determined to have characteristics of dyslexia if the following criteria are met.

- a. The student has adequate intelligence demonstrated through performance in the classroom appropriate for the student's age, or on standardized measures of cognitive ability.

- b. The student demonstrates difficulties in areas which are often unexpected in relation to age, previous instruction, and other cognitive and academic abilities. The student has had extensive remediation/assistance in order to maintain grades. However, deficits were evident prior to remediation. The student must demonstrate at least 5 out of 6 of the following characteristics:

- i. lack of or limited phonological awareness;

- ii. common error patterns in reading and learning behaviors, such as:

- (a). reading, decoding inaccuracies in single words and nonsense words (e.g., detached syllables);

- (b). slow reading rate;

- (c). omissions of, or substitutions of, small words (e.g., a/the, of/for/from, three/there);

- (d). reduced awareness of patterns in words;

- (e). difficulties generalizing word and language patterns;

- iii. language (oral or written, receptive or expressive) is simplistic or poor in relation to other abilities;

- iv. errors in spontaneous spelling;

- v. spontaneous written language is very simple or poor in comparison to spoken *language*; and

- vi. spontaneous written language shows poor organization and mechanics.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:252 (February 2000).

Chapter 9. Multisensory Structured Language Regular Education Program

§901. Program

A. Program Criteria

Note: The LEA shall be responsible for ensuring that the program provided for students who have been determined to have characteristics of dyslexia meets the criteria of R.S. 17:7(11), the Louisiana Dyslexia law.

B. The Multisensory Structured Language Program(s) shall consist of specific program content and a delivery system as described below.

1. Content Components

a. *Language-Based* a program that provides instruction that integrates all aspects of language:

- i. receptive (listening and reading);
- ii. expressive [oral expression (word finding, sequencing), written expression (spelling, mechanics, coherence)];
- iii. handwriting.

b. *Phonological Awareness* an understanding that words are made up of individual speech sounds and that those sounds can be manipulated.

- i. Rhyming
- ii. Recognition of Initial, Final and Medial Sounds
- iii. Recognition of Vowel Sounds
- iv. Recognition and Identification of the Number of Syllables in a Word

v. Sound Blending of Phonemes (sounds) in Words and Detached Syllables

vi. Phoneme Segmentation of Real Words and Detached Syllables

vii. Phoneme Manipulation

c. *Phonetic* the system by which symbols represent sounds in an alphabetic writing system:

- i. accurately pronouncing each phoneme represented by a given grapheme (symbol to sound);
- ii. writing the graphemes that represent each given phoneme (sound to symbol).

d. *Syllable Instruction* instruction in kinds of syllables and their application to reading. Syllable - a word or part of a word which contains one sounded vowel.

e. *Linguistics* the science of language, including phonology, morphology, syntax and semantics. The study of the structure of a language and its relationship to other languages.

f. *Meaning Based* instruction provided in words and sentences to extract meaning in addition to teaching isolated letter-sound correspondence:

- i. instruction in morphology which includes identification of morphemes and their functional use in written and spoken words;
- ii. instruction of syntax to include sentence construction, combining, and expansion in both narrative and expository text;
- iii. instruction of semantics to include vocabulary acquisition, idioms, figurative language;
- iv. instruction in comprehension of narrative and expository text;

g. *Instruction in Reading Fluency* the accuracy; appropriate use of pitch, juncture and stress; text phrasing; and rate at which one reads:

i. provides for substantial practice and continual application of decoding and word recognition to work toward automaticity;

ii. provides opportunities for reading large amounts of text:

(a). at the student's independent reading, level (with 95 percent accuracy);

(b). which provides specific practice in skills being learned.

h. *Phonics* refers to instructional practices that emphasize how spellings are related to speech sounds in systematic ways.

C. Instructional Methodology for Students with Characteristics of Dyslexia (Delivery of Instructional Content)

1. Direct instruction with student-teacher interaction and diagnostic teaching.

2. *Simultaneous Multisensory* an instructional approach that uses a simultaneous combination of internal learning pathways, visual, auditory, kinesthetic, and tactile, to achieve proficiency in language processing.

3. *Synthetic to Analytic Phonics* teaches students the sounds of the letters first and then combines or blends these sounds to create words. Analytic phonics uses prior knowledge of letters and their corresponding sounds to decode and form new words.

D. Synthetic phonics teaches students the sounds of the letter first and then combines or blends these sounds to create words.

1. Systematic. Material is organized and taught in a way that is logical and fits the nature of our language. It refers to the way sounds combine to form words and words combine to form sentences to represent knowledge. The ways are determined by a system of rules.

2. Sequential. The learner moves step by step, in order, from simple, well-learned material to that which is more complex, as he or she masters the necessary body of language skills.

3. Cumulative. Each step is incremental and based on those skills already learned.

4. Individualized. Teaching is planned to meet the differing needs of learners who are similar to each other, but no two exactly alike.

5. Automaticity of Performance. Fluent processing of information that requires little effort or attention as sight word recognition. Adequate practice with decodable text is to be provided for mastery of skills and applications of concepts.

E. Multisensory Structured Language Program Implementation

1. Multisensory Structured Language Programs are to be routinely provided within the regular school day, a minimum of 150 minutes per week:

a. regular class placement with Multisensory Structured Language Programming;

b. out-of-class placement in a Multisensory Structured Language Program;

c. individual or small group instruction in a Multisensory Structured Language Program;

d. a combination of these options or any additional arrangements that may be developed by the Committee.

2. If a student is in a Multisensory Structured Language Program, according to R.S. 17:7(11) the Louisiana Dyslexia Law, grades should be derived from that program in lieu of the local program. Criteria for promotion must be described in the LEAs Pupil Progression Plan.

Note: If a parent or guardian or school system does not agree with the provision of services, contact the LEA 504/1903 Dyslexia Coordinator.

F. Evaluation Data and Review of Student Progress

1. Evaluation data shall be maintained on students enrolled in Multisensory Structured Language Programs.

2. A periodic review shall be made to determine the appropriateness of the program for the student. At a minimum, an annual review is required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:254 (February 2000).

Chapter 11. Glossary

§1101. Terminology of the Bulletin

Accommodation is any technique that alters the academic setting or environment. An accommodation generally does not change the information or amount of information learned. It enables students to show more accurately what they actually know.

Assessment is the act or process of gathering data in order to better understand the strengths and weaknesses of student learning as by observation, testing, interviews, etc.

Automaticity is fluent processing of information that requires little effort or attention, as sight word recognition.

Balanced Reading Approach refers to the availability of a variety of programs which include phonology, phonemic awareness, phonics, syntax, morphology, fluency, and reading comprehension.

Constitutional Origin relating to the origin of the dyslexic student's disability. The nature of the disability does not result from injury, but rather is of an inborn nature.

Developmental Auditory Imperception difficulties in perceiving and using what is heard. The student may have difficulty with auditory processing, auditory discrimination, and learning sound-symbol associations.

Dysgraphia difficulty with producing written symbols, usually resulting in slow and poor quality handwriting.

Dyslexia one of several distinct learning disabilities. It is a specific language-based disorder of constitutional origin characterized by difficulties in single word decoding, usually reflecting insufficient phonological processing abilities. These difficulties in single word decoding are often unexpected in relation to age and other cognitive and academic abilities; they are not the result of generalized developmental disability or sensory impairment. Dyslexia is manifested by variable difficulty with different forms of language, often including, in addition to problems in reading, a conspicuous problem with acquiring proficiency in writing and spelling. (NICHD)

Dysphasia severe difficulty with expressive and receptive oral language.

Evaluation is the in-depth process of review, examination, and interpretation of intervention efforts, test results, interviews, observations, and other assessment information relative to predetermined criteria.

Expressive Language is the act of conveying information through writing, speaking, or gesturing.

Fluency is the clear, easy, written or spoken expression of ideas.

Grapheme (Sound) is a written or printed representation of a phoneme (e.g., t, l, z).

IDEA Individuals with Disabilities Education Act (Public Law 105-17); the special education law.

Intensive Phonics is a combination of analytic phonics and synthetic phonics. *Analytic phonics* uses prior knowledge of letters and their corresponding sounds to form new words. *Synthetic phonics* teaches students the sounds of the letters first and then combines or blends these sounds to create words.

Modification is any technique that alters the work required in some way that makes it different from the work required of other students in the same class. A modification generally does change the work format or amount of work required of students. It encourages and facilitates academic success.

Morpheme is the smallest unit of meaning in language (e.g., s, ed. play).

Multisensory Structured Language Program is the type of program that is mandated by R.S. 17:7(11), the Louisiana Law for the Education of Dyslexic Students, or students found to have characteristics of dyslexia (refer to page 7 for specific program components).

Phoneme is the smallest unit of sound capable of signaling semantic distinction or meaning (e.g., /sh/-/l/-/p/).

Phoneme Manipulation is dropping, adding, or moving phonemes to create new words or detached syllables.

Phoneme Segmentation is the ability to separately articulate the sounds of a spoken word in order.

Phonemic Awareness is the awareness that spoken words or syllables can be divided into a sequence of phonemes. Phonemic awareness pertains to the rule system and is a sub-category of phonological awareness.

Phonics is an approach to the teaching of reading and spelling that stresses symbol-sound relationships, especially in beginning reading instruction.

Phonological Awareness is an understanding that words are made up of individual speech sounds as distinct from their meaning and that those sounds can be manipulated.

Phonology is the study of the speech sounds of a language and their underlying rules of usage.

Procedural Safeguards is a system of providing parents or guardians with procedural safeguards:

1. notice of their rights;
2. an opportunity to review relevant records;
3. an impartial hearing - parents or guardians must be notified of their right to request a hearing regarding the identification, evaluation, or educational placement of persons with disabling conditions; and
4. a review procedure, if parents disagree with the hearing decision.

R.S. 17:7(11) is The Louisiana Law for the Education of Dyslexic Students.

Receptive Language is the act of understanding information by listening, reading, or gesturing.

Screening is a brief examination which determines the presence or absence of an important impediment to learning.

Section 504 of the Rehabilitation Act of 1973 is federal law found at 29 U.S.C. Secs.706(7), 794, 794a, 794b. "No otherwise qualified disabled individual...shall, solely by the

reason of his/her handicap, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance."

Semantics the study of meaning in language.

Syntax the study of how sentences are formed and of the grammatical rules that govern their formation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:255 (February 2000).

Chapter 13. Regulations for the Implementation of R.S. 17:392.1 and 392.3

§1301. Part VI-A. Screening and Intervention for School Success

A. R.S. 392.1. Screening and Intervention; Purpose; Applicability; City and Parish School System, Duties

1. R.S. 392.1. The legislature acknowledges that identification of and adjustment to the individual characteristics that affect a child's learning style will improve a child's opportunity to succeed in school. Some of the characteristics that children bring to school with them are products of learning disorders and/or social or emotional risk factors that, if identified, acknowledged, and addressed can be mitigated or alleviated.

2. It is the purpose of this Part to intervene with regard to any impediments to a successful school experience that exist for children as early as possible in their schooling and to bring to bear all resources that can be made available in a school setting to address any difficulty a child may have and make it possible for him to begin school ready and able to learn.

3. Every child in public school in grades kindergarten through third shall be screened, at least once, for the existence of impediments to a successful school experience. No child shall be screened if his parent or tutor objects to such screening.

4. Such impediments shall include:

- a. dyslexia and related disorders, as defined in R.S. 17:7(11);
- b. attention deficit disorder;
- c. social and environmental factors that put a child "at risk" as that term has been defined by the State Department of Education, pursuant to R.S. 17:7.5(A).

5. In doing such screenings, a priority shall be placed on screening any student referred for screening, pursuant to R.S. 17:7(11); however, if a child is so referred, a screening for all other impediments shall be done at the same time.

6. Screenings as required by R.S. 392.1 shall have one or more of the following results:

- a. no indication of need for services;
- b. indication of need for services to ameliorate the effect of a possible learning disorder;
- c. indication of need for assistance to ameliorate the effect of a possible at-risk factor.
- d. referral for further evaluation for the existence of eligibility for the receipt of special education services;

7. Children in need of services and/or assistance shall have it provided to them. Services for disorders shall be provided in accordance with R.S. 17:7(11). Children who are referred for further evaluation shall be provided further evaluation in accordance with Chapter 8 of this Title.

Children who are in need of assistance shall have it provided to them in accordance with this Part.

8. The screenings required by R.S. 392.1 shall be done directly by elementary guidance counselors, pupil appraisal personnel, teachers, or any other professional employees of the school system who have been appropriately trained, all of whom shall operate as advocates for the children identified as needing services or assistance pursuant to this Part. No screenings shall be done by persons who have not been trained to do such screenings, consistent with the requirements established for such training by the State Board of Elementary and Secondary Education.

B. R.S. 392.3. Implementation

1. It is the intention of the Legislature that the costs relative to the implementation of the provisions of this Section shall be covered by funds appropriated by the state. Such funds shall include those appropriated pursuant to the Minimum Foundation Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:256 (February 2000).

§1303. Introduction

A. Guidance counselors/screening specialists-qualifications and training requirements:

1. Act 1 120 of the 1992 Regular Legislative Session [R.S. 17:392.1 & 392.3] requires Local Educational Agencies to intervene as early as possible in every child's school career to reduce any impediments to a successful school experience;

2. the Board of Elementary and Secondary Education at its January 1995 meeting adopted regulations for the implementation of R.S. 17:392.1 & 392.3. Qualifications and training requirements of guidance counselors/screening specialists were adopted pursuant to this law;

3. the main points of this law are as follows:

- a. every child in grades K-3 will be screened, at least once, for dyslexia and related disorders, ADD/ADHD, and social and emotional "at risk" factors;
- b. no child shall be screened if his parent(s) or tutor objects to such screening;
- c. screening shall be conducted by elementary school guidance counselors, pupil appraisal personnel, teachers, or any other trained employee of the school;
- d. screening shall not be conducted by personnel who have not been trained consistent with requirements established by the Board of Elementary and Secondary Education;

e. each city/parish school system shall employ at least one guidance counselor and/or screening specialist for every 800 students in the elementary school;

f. the costs of implementation shall be provided through the N4FP.

Note: LEAs that can document completed training as specified in the law prior to acceptance of this document will be considered to have met these requirements.

B. Qualifications for screening specialist/guidance counselors pursuant to Act 1120 of the 1992 Legislative Session

1. Guidance Counselors:

- a. certification in elementary guidance;
- b. ability to work with teachers and other professionals who serve as advocates for children.

2. Classroom Teachers:
 - a. certification in elementary grades or special education;
 - b. ability to work with teachers and other professionals to serve as advocates for children;
 - c. a minimum of three years classroom experience.

3. Pupil Appraisal Personnel and/or Other Professionals:

- a. certification or licensure as appropriate and approved by the State Department of Education;
- b. ability to work with teachers and other professionals who serve as advocates for children.

4. Numbers 2 and 3 will be called "Screening Specialists" teachers, pupil appraisal personnel under their supervision or by such other professional employees of the school system as have been appropriately trained, all of whom shall be included within the term "guidance counselor" as used in this Part.

C. Training Requirements:

1. A minimum of 18 clock hours of training in the following is required.

a. Identification and Knowledge of the Following - (4 hours)

- i. Characteristics of ADHD
- ii. Characteristics of Dyslexia and related disorders pursuant to R.S. 17:7 (11)
- iii. Characteristics of Social and Emotional "At Risk" Factors

b. Use of Appropriate Screening Instruments - (6 hours)

- i. Kindergarten Screening Instrument(s) - State Approved/to Determine Developmental Strengths and Needs
- ii. ADHD Checklist
- iii. Social/Emotional Factors "At Risk" Checklist
- iv. Informal Reading/Language Inventories
- v. Rapid Automatic Naming Tests
- vi. Written Language Samples
- vii. Informal Mathematical Assessment
- viii. Norm-Reference Tests

c. Administration and Interpretation of LEA Selected Screening Instruments

i. Training of Personnel to Administer Instruments

ii. Interpret Screening Results

d. Operation and Procedures of School Building Level Committee - (3 hours)

- i. Membership
- ii. Referral Process
- iii. Interventions in the Classroom
- iv. Documentation
- v. Decision-Making Process - 1903, 504, 1508 (if warranted)

e. Selection of Appropriate Classroom Strategies, Accommodations and Modifications - (4 hours)

f. Child Advocacy - (1 hour)

Note: The number of hours in each area has been documented. Re-training is not necessary if any previous training can be documented within the last 3 years.

D. Characteristics associated with dyslexia and related disorders:

1. lack of or limited phonological awareness;
2. common error patterns in reading and learning behaviors, such as:

- a. reading decoding inaccuracies in single words and nonsense words (e.g., detached syllables);
- b. slow reading rate;
- c. omissions of, or substitutions of, small words (e.g., a/the, of/for/from, three/there);
- d. reduced awareness of patterns in words;
- e. difficulties generalizing word and language patterns.

3. Language (oral or written, receptive or expressive) is simplistic or poor in relation to other abilities.

4. Errors in spontaneous spelling.

5. Spontaneous written language is very simple or poor in comparison to spoken language.

6. Spontaneous written language shows poor organization and mechanics

Source: Regulations for the Implementation of the Louisiana Law for the Education of Dyslexic Students [R.S. 17:7(11)].

7. Additional factors which may contribute to the above characteristics:

- a. family history of similar problems;
- b. late in learning to talk;
- c. receptive language skills are typically better than expressive;

d. difficulty in finding the "right" word when speaking;

e. difficulty in processing both oral and written language. May also affect foreign language acquisition;

f. difficulty in learning to write the alphabet correctly in sequence;

g. cramped or illegible handwriting;

h. late in establishing preferred hand for writing;

i. late in learning right and left and other directionality components such as up-down, front-behind, over-under, east-west and others;

j. problems in learning the concept of time and temporal sequencing: e.g., yesterday, tomorrow, days of the week, and months of the year;

k. reversal of letters or sequences of letters that are not developmentally appropriate;

l. difficulty in learning to decode and comprehend age appropriate written information;

m. slow reading speed;

n. difficulty learning sound-letter correspondence;

o. difficulty in learning and remembering printed words;

p. repeated erratic spelling errors;

q. error proneness in reading;

r. word substitutions in oral reading;

s. difficulty identifying, blending, segmenting and manipulating phonemes;

t. losing ground on achievement or intelligence tests.

E. Characteristics of attention deficit disorders

1. often fails to give close attention to details or makes careless mistakes in schoolwork, work, or other activities;

2. often has difficulty sustaining attention in tasks or play activities;

3. often does not seem to listen when spoken to directly;

4. often does not follow through on instructions and fails to finish schoolwork, chores, or duties in the workplace (not due to oppositional behavior or failure to understand instructions);

5. often has difficulty organizing tasks and activities;
6. often avoids, dislikes, or is reluctant to engage in tasks that require sustained mental effort (such as schoolwork or homework);
7. often loses things necessary for tasks or activities (e.g., toys, school assignments, pencils, books, or tools);
8. is often easily distracted by extraneous stimuli;
9. is often forgetful in daily activities;
10. often fidgets with hands or feet or squirms in seat;
11. often leaves seat in classroom or in other situations in which remaining seated is expected;
12. often runs about or climbs excessively in situations in which it is inappropriate (in adolescents or adults, may be limited to feelings of restlessness);
13. often has difficulty playing or engaging in leisure activities quietly;
14. is often "on the go" or often acts as if "driven by a motor";
15. often talks excessively;
16. often blurts out answers before questions have been completed;
17. often has difficulty awaiting turn,
18. often interrupts or intrudes on others (e.g., butts into conversations or games.

Source: American Psychiatric Association. (1994). Diagnostic and statistical manual of mental disorders (4th ed.). Washington, DC: Author.

F. Definition of Otherwise At-Risk Students

1. Students at-risk are those who are experiencing difficulty with learning, school achievement, progress towards graduation from high school, and/or preparation for employment because of social, emotional, physical and mental factors. Students are defined as being at-risk when they are

- a. performing at an inappropriate developmental level;
- b. one or more years behind in the basic skill levels in language arts and/or math;
- c. have been retained academically one or more years;
- d. have exhibited excessive absenteeism from school;
- e. come from low socioeconomic level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:256 (February 2000).

§1305. Instruments for Identification and Screening Appendix A

Test Cognitive Ability	Publisher	Cost	Admin. Time	Ease	Age Level	Score Time	Types of Scores	Admin. Qualif.*	Lang.	Global or Dyslexia Spec.	Indiv. or Group	Assess or Screen	Min. 1903 Criteria
Wechsler Adult Intelligence Test-III (WAIS-III)	Psychological Corporation	\$548 \$65/25	75 min.	Difficult	16 - 89	30 min.	Standard	C-level	English/ Spanish	Global	Indiv	Assess	
Wechsler Intelligence Scale for Children-3rd edition (WISC-III)	Psychological Corporation	\$578 \$65/25	75 min.	Difficult	6 - 16	30 min.	Standard	C-level	English/ Spanish	Global	Indiv	Assess	
Kaufman Assessment Battery for Children (K-ABC)	American Guidance Service	\$340 \$36/25	35 - 85 min.	Difficult	2.5 - 12.5	20 min.	Standard	C-level	English	Global	Indiv	Assess	
Kaufman Brief Intelligence Test (KBIT)	American Guidance Service	\$115 \$27/25	15 - 30 min.	Mod	4 - 90	10 min.	Standard	B-level	English	Global	Indiv	Screen	Yes
Kaufman Adolescent and Adult Intelligence Test (KAIT)	American Guidance Service	\$520 \$48/25	75 min.	Difficult	12.5 - Adult	20 min.	Standard	C-level	English	Global	Indiv	Assess	
Stanford-Binet Intelligence Scales-4th Edition (SB-IV)	Riverside	\$624 \$66/35	75 min.	Difficult	2 - Adult	30 min.	Standard	C-level	English	Global	Indiv	Assess	
Slosson Full Range Intelligence Test	PAR	\$119 \$23/25	20 - 35 min.	Easy	5 - 21	10 min.	Standard	B-level	English	Global	Indiv	Screen	Yes

*Level A

User has completed at least one course in measurement, guidance, or related discipline or has equivalent supervised experience in test administration and interpretation.

*Level B

User has completed training in measurement, guidance, individual psychological assessment or special appraisal methods appropriate for a particular test.

*Level C

User has completed a recognized graduate training program in psychology with appropriate course work and supervised practical experience in the administration and interpretation of clinical assessment instruments.

Test Cognitive Ability	Publisher	Cost	Admin Time	Ease	Age Level	Score Time	Types of Scores	Admin. Qualif. *	Lang.	Global or Dyslexia Spec.	Indiv. or Group	Assess or Screen	Min. 1903 Criteria
Woodcock Johnson Tests of Cognitive Ability-Revised	Riverside	\$460 \$44/25	90 min.	Mod	2 - 90	20 min.	Standard	B-level	English/ Spanish	Global	Indiv.	Assess	
Detroit Test of Language Skills (DTLA-3)	Pro-Ed	\$249 \$39/25	90 min.	Mod	6 - 17	20 min.	Standard	B-level	English	Global	Indiv.	Assess	
Test of Non-Verbal Intelligence (TONI-3)	Pro-Ed	\$219 \$34/50	15 - 20 min.	Easy	5 - 85	10 min.	Standard	B-level	None	Global	Indiv.	Screen	Yes
Comprehensive Test of Nonverbal Intelligence (CTONI)	Pro-Ed	\$269 \$28/25	1 hour	Mod	6 - 90	10 min.	Standard	B-level	None	Global	Indiv.	Assess	
Children's Memory Scale	Psychological Corporation	\$329 \$32/25	30 min.	Difficult	5 - 16	15 min.	Standard	C-level	English	Global	Indiv.	Assess	
Wechsler Memory Scale III	Psychological Corporation	\$331	45 min.	Difficult	16 - 89	15 min.	Standard	C-level	English	Global	Indiv.	Assess	
Quick Neurological Screening Test-Revised (QNST)	Psychological Corporation	\$50 \$16.50/ 25	20 - 30 min.	Easy	K - 17	10 min.	Standard	C-level	English	Global	Indiv.	Screen	
Bender Visual Motor Gestalt Test	Psychological Corporation	\$37	10 min.	Easy	5 - 11	10 min.	Standard	C-level	None	Global	Indiv.	Screen	
Developmental Test of Visual Motor Integration (VMI-4)	Pro-Ed	\$169 \$62/25	10 - 15 min.	Easy	3 - 18	15 min.	Standard	B-level	None	Global	Indiv./ Group	Screen	

Test Achievement Reading-Decoding	Publisher	Cost	Admin Time	Ease	Age Level	Score Time	Types of Scores	Admin. Qualif. *	Lang.	Global or Dyslexia Spec.	Indiv. or Group	Assess or Screen	Min. 1903 Criteria
Wide Range Achievement Test-III (WRAT-III)	Pro-Ed	\$119 \$29/25	30 min.	Easy	5 - 75	5 min.	Standard	B-level	English	Global	Indiv/ Group	Screen	Yes
Woodcock-Johnson Test of Achievement (WJR)	Riverside	\$254 \$44/25	1 hour	Mod	2 - 90	20 min.	Standard	B-level	English/ Spanish	Global	Indiv	Assess	Yes
Peabody Individual Achievement Test-Revised (PIAT-R)	American Guidance Service	\$280 \$70/50	1 hour	Mod	5 - 18	20 min.	Standard	B-level	English	Global	Indiv	Asses	Yes
Kaufman Test of Educational Achievement (K-TEA) Comprehensive	American Guidance Service	\$170 \$35/25	45 min.	Mod	5 - 18	15 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Kaufman Test of Educational Achievement (K-TEA) Brief	American Guidance Service	\$105 \$27/25	20 - 30 min.	Mod	5 - 18	10 min.	Standard	B-level	English	Global	Indiv	Screen	Yes
Woodcock Reading Mastery Test - Revised	American Guidance Service	\$215 \$40/25	45 min.	Mod	5 - 75	20 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Wechsler Individual Achievement Test (WIAT)	Psychological Corporation	\$239 \$35/25	45 - 60 min.	Mod	5 - 19	20 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Gray Oral Reading Test (GORT) 3rd Edition	Pro-Ed	\$147 \$34/25	15 - 30 min.	Mod	7 - 18	10 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Slosson Oral Reading Test-Revised (SORT-R)	Slosson Educational Publications	\$32 \$16/50	3 - 5 min.	Easy	4 - Adult	5 min.	Grade/ Age Equi- valent	A-level	English	Dyslexia	Indiv	Screen	Yes
Gallestel-Ellis Test of Coding Skills: GE	Montage Press	\$27	15 - 30 min.	Easy	7 - Adult	15	Criterion	A-level	English	Dyslexia	Indiv/ Group	Screen	Yes
Test Comprehension	Publisher	Cost	Admin Time	Ease	Age Level	Score Time	Types of Scores	Admin. Qualif. *	Lang.	Global or Dyslexia Spec.	Indiv. or Group	Assess or Screen	Min. 1903 Criteria
Nelson Denny Reading Test	Riverside	\$33 \$61/50	30 min	Easy	9th grade/ Adult	5 min	Standard	B-level	English	Global	Indiv/ Group	Assess	
Woodcock-Johnson-Revised-Tests of Achievement (WJR)	Riverside	\$254 \$44/25	1 hour	Mod	2 - 90	20 min	Standard	B-level	English/ Spanish	Global	Indiv	Asses	Yes

Peabody Individual Achievement Test-Revised (PIAT-R)	American Guidance Service	\$280 \$70/50	1 hour	Mod	5 - 18	20 min	Standard	B-level	English	Global	Indiv	Asses	Yes
Kaufman Test of Educational Achievement (K-TEA)	American Guidance Service	\$170 \$35/25	45 min.	Mod	5 - 18	15 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Wechsler Individual Achievement Test (WIAT)	Psychological Corporation	\$239 \$35/25	45 - 60 min.	Mod	5 - 19	20 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Gates-MacGinitie Silent Reading Tests-Survey F	Riverside	\$81 \$56/35	90 min.	Easy	K - 12	10 min.	Standard	B-level	English	Global	Indiv/ Group	Assess	Yes
Gray Oral Reading Test (GORT) 3rd Edition	Pro-Ed	\$147 \$34/25	15 - 30 min.	Mod	7 - 18	10 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Test of Reading Comprehension-3	Pro-Ed	\$139 \$34/50	30 min.	Mod	7 - 18	10 min.	Standard	B-level	English	Global	Indiv/ Group	Screen	Yes
Test Math Computation	Publisher	Cost	Admin Time	Ease	Age Level	Score Time	Types of Scores	Admin. Qualif *	Lang.	Global or Dyslexia Spec.	Indiv. or Group	Assess or Screen	Min. 1903 Criteria
Wide Range Achievement Test - III (WRAT - III)	Pro-Ed	\$119 \$29/25	30 min.	Easy	5 - 75	5 min.	Standard	B-level	English	Global	Indiv/ Group	Screen	Yes
Woodcock-Johnson Revised Tests of Achievement (WJR)	Riverside	\$254 \$44/25	1 hour	Mod	2 - 90	20 min.	Standard	B-level	English/ Spanish	Global	Indiv	Screen	Yes
Kaufman Test of Educational Achievement (K-TEA)	American Guidance Service	\$170 \$35/25	45 min.	Mod	5 - 18	15 min.	Standard	B-level	English	Global	Indiv	Screen	Yes
Wechsler Individual Achievement Test (WIAT)	Psychological Corporation	\$239 \$35/25	45 - 60 min.	Mod	5 - 19	20 min.	Standard	B-level	English	Global	Indiv	Screen	Yes
Key Math Revised	American Guidance Service	\$210 \$40/25	35 - 50 min.	Mod	K - 9	15 min.	Standard	B-level	English	Global	Indiv	Screen	Yes
Math Applications													
Woodstock-Johnson Test of Achievement (WJR)	Riverside	\$254 \$44/25	1 hour	Mod	2 - 90	20 min.	Standard	B-level	English/ Spanish	Global	Indiv	Assess	Yes
Peabody Individual Achievement Test-Revised (PIAT-R)	American Guidance Service	\$280 \$70/50	1 hour	Mod	5 - 18	20 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Kaufman Test of Educational Achievement(KTEA)	American Guidance Service	\$170 \$35/25	45 min.	Mod	5 - 18	15 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Wechsler Individual Achievement Test (WIAT)	American Guidance Service	\$239 \$35/25	45 - 60 min.	Mod	5 - 19	20 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Key Math Revised	Psychological Corporation	\$210 \$40/25	35 - 50 min.	Mod	K - 9	15 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Test Written Expression	Publisher	Cost	Admin Time	Ease	Age Level	Score Time	Types of Scores	Admin. Qualif *	Lang.	Global or Dyslexia Spec.	Indiv. or Group	Assess or Screen	Min. 1903 Criteria
Oral and Written Language Scale (OWLS)	American Guidance Service	\$80 \$44/25	20 min.	Easy	5 - 21	20 min.	Standard	B-level	English	Global	Indiv/ Group	Assess	
Woodstock-Johnson Test of Achievement (WJR)	Riverside	\$254 \$44/25	1 hour	Mod	2 - 90	20 min.	Standard	B-level	English/ Spanish	Global	Indiv	Assess	Yes
Test of Written Language (TOWL-3)	American Guidance Service	\$164 \$39/25	90 min.	Mod	7.5 - 18	20 min.	Standard	A-level	English	Global	Indiv/ Group	Assess	
Test of Early Written Language (TEWL- 2)	Riverside	\$154 \$51/10	30 - 45 min.	Mod	3 - 10	15 min.	Standard	B-level	English	Global	Indiv	Assess	
Wechsler Individual Achievement Test (WIAT)	Psychological Corporation	\$239 \$35/25	45 - 60 min.	Mod	5 - 19	20 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Spelling													
Wide Range Achievement Test - III	Pro-Ed	\$119 \$29/25	30 min.	Easy	5 - 75	5 min.	Standard	B-level	English	Global	Indiv/ Group	Screen	Yes
Peabody Individual Achievement Test-Revised (PIAT-R)	American Guidance Service	\$280 \$70/50	1 hour	Mod	5 - 18	20 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Woodcock-Johnson Test of Achievement (WJR)	Riverside	\$254 \$44/25	1 hour	Mod	2 - 90	20 min.	Standard	B-level	English/ Spanish	Global	Indiv	Assess	Yes

Kaufman Test of Educational Achievement (K-TEA) Comprehensive	American Guidance Service	\$170 \$35/25	45 min.	Mod	5 - 18	15 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Wechsler Individual Achievement Test (WIAT)	Psychological Corporation	\$239 \$35/25	45 - 60 min.	Mod	2 - 90	20 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Test of Written Spelling (TOWL - 3)	Pro-Ed	\$74 \$34/50	20 min.	Easy	5 - 18	10 min.	Standard	B-level	English	Global	Indiv/Group	Screen	Yes
Test Oral Language Receptive	Publisher	Cost	Admin Time	Ease	Age Level	Score Time	Types of Scores	Admin. Qualif *	Lang.	Global or Dyslexia Spec.	Indiv. or Group	Assess or Screen	Min. 1903 Criteria
Peabody Picture Vocabulary Test - 3rd Edition (PPVT-3)	American Guidance Service	\$120 \$23/25	11-12	Easy	2.5 - 90	5 min.	Standard	B-level	English	Global	Indiv	Screen	Yes
Test of Language Development (TOLD-2)	Pro-Ed	\$212 \$66/50	30 - 60 min.	Mod	4 - 9	10 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Expressive													
Expressive Vocabulary Test (EVT)	American Guidance Service	\$120 \$23/25	15 min.	Easy	2.5 - 90	5 min.	Standard	B-level	English	Global	Indiv	Screen	Yes
Oral and Written Language Scale (OWLS)	American Guidance Service	\$80 \$44/25	20 min.	Mod	5 - 21	20 min.	Standard	B-level	English	Global	Indiv/Group	Assess	Yes
Test of language Competence (TLCE)	Psychological Corporation	\$266 \$28/25	60 min.	Mod	9 - 19	10 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Clinical Evaluation of Language Functions-III (CELF-3)	Psychological Corporation	\$265 \$23/12	45 - 60 min.	Mod	5 - 16	15 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Wechsler Individual Achievement Test (WIAT)	Psychological Corporation	\$239 \$35/25	90 min.	Mod	5 - 19	20 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Detroit Test of Language Skills (DHLA - 3)	Pro-Ed	\$249 \$39/25	90 min.	Mod	6 - 17	20 min.	Standard	B-level	English	Global	Indiv	Assess	Yes
Preschool Language Scale	Psychological Corporation	\$98 \$22/12	20 - 50 min.	Mod	0 - 6	15 min.	Standard	B-level	English	Global	Indiv	Screen	Yes
Test of Problem Solving	Lingui Systems	\$58 \$15/20	20 - 25 min.	Mod	6 - 12	10 min.	Standard	A-level	English	Global	Indiv	Screen	Yes
Test Informal Assessment	Publisher	Cost	Admin Time	Ease	Age Level	Score Time	Types of Scores	Admin. Qualif *	Lang.	Global or Dyslexia Spec.	Indiv. or Group	Assess or Screen	Min. 1903 Criteria
Portfolio	N/A						Criterion				Indiv	Screen	
Handwriting	N/A						Criterion				Indiv	Screen	
Sequencing: alphabet, days, weeks, months of year, numbers 1 through 20	N/A						Criterion				Indiv	Screen	
Spontaneous Language Sample	N/A						Criterion				Indiv	Screen	
Spontaneous Writing Sample	N/A						Criterion				Indiv	Screen	
Spontaneous Writing Sample expository and narrative	N/A						Criterion				Indiv	Screen	
Behavior Rating Scales													
Behavior Assessment System for Children (BASC)	American Guidance Service	\$75 \$26/25	10 - 20 min.	Mod	4 - 18	10 min.	Standard	C-level	English/Spanish	Global	Indiv	Assess	
Children's Attention and Adjustment Survey (CAAS)	American Guidance Service	\$116 \$25/15	5 - 10 min.	Easy	5 - 13	5 min.	Standard	B-level	English	Global	Indiv	Screen	Yes
Student and Self-Concept Scale	American Guidance Service	\$40 \$25/15	20 - 30 min.	Easy	Grades 3 - 12	5 min.	Standard	B-level	English	Global	Indiv	Screen	Yes
Connors' Rating Scales (Revised)	Psychological Corporation	\$135 \$99/ 100	10 min.	Easy	3 - 17	5 min.	Standard	B-level	English	Global	Indiv	Screen	Yes
Piers Harris Self-Concept Scale	WPS	\$115 \$17/25	10 min.	Easy	Grades 4 - 12	5 min.	Standard	B-level	English	Global	Indiv	Screen	Yes

Multidimensional Self-Concept Scale	Pro-Ed	\$64 \$29/50	20 min.	Easy	Grades 5 - 12	5 min.	Standard	B-level	English	Global	Group	Screen	Yes
ADD-H-0 Comp Teacher's Rating Scales	Hawthorne	\$64 \$50/ 100	10 - 15 min.	Easy	Grades K-8th	5 min.	Standard	B-level	English	Global	Indiv	Screen	Yes
Test Screening	Publisher	Cost	Admin Time	Ease	Age Level	Score Time	Types of Scores	Admin Qualif *	Lang.	Global or Dyslexia Spec.	Indiv or Group	Assess or Screen	Min. 1903 Criteria
Degrees of Reading Power	Touchstone	\$75/30	45 - 50 min.	Mod	Grades 1 - 3	N/A	Criterion	A-level	English	Global	Group	Screen	Yes
Gallestel Ellis Test of Coding Skills	Montage Press	\$27	15 - 30 min.	Easy	7- Adult	15	Criterion	A-level	English	Dyslexia	Indiv/Group	Screen	Yes
Test of Phonological Awareness	Pro-Ed	\$129 \$35/25	20 min.	Easy	K-2	5 min.	Standard	B-level	English	Global	Indiv	Screen	Yes
Slingerland Screening Tests	Riverside	\$71 \$16/12	30 min.	Easy	Grades 1 - 6	10 min.	Criterion	A-level	English	Dyslexia	Indiv/Group	Screen	Yes
The Phonological Awareness Test	Lingui System		40 min.	Easy	5 - 9	10 min.	Standard/Criterion	A-level	English	Dyslexia	Indiv	Screen	Yes
Test of Awareness of Language Segments	Pro-Ed	\$98 \$24/50	15 min.	Easy	4 - 7	5 min.	Criterion	B-level	English	Dyslexia	Indiv	Screen	Yes
Lindamood Auditory Conceptualization Test	Pro-Ed	\$98 \$27/50	15 - 30 min.	Easy	N/A	5	Criterion	A-level	English	Dyslexia	Indiv	Screen	Yes
Dyslexia Screening Instrument (Checklist)	Psychological Corporation	\$58 \$11/25	20 min.	Easy	6 - 21	5	Criterion	A-level	English	Dyslexia	Indiv	Screen	Yes
Woodcock Diagnostic Reading Battery	Riverside	\$247 \$34/25	50 - 60 min.	Mod	4 - 90	20	Standard	B-level	English	Global	Indiv	Assess	Yes
Test of Early Reading Ability	Riverside	\$183 \$39/25	15 - 30 min	Mod	3-10	5	Standard	B-level	English	Global	Indiv	Assess	Yes
Decoding Skills Test			30 min.	Easy	N/A	15 min.	Standard/Criterion	A-level	English	Global	Indiv	Screen	Yes
Observation Survey of Early Literacy Achievement	Heireman	\$25	15 min.	Easy	K-3	5 min.	Criterion	A-level	English	Global	Indiv	Screen	Yes
Developmental Reading Assessment (DRA)	Celebration Press	\$85	25 min.	Easy	K-3	5 min.	Criterion	A-level	English	Global	Indiv	Assess/Screen	Yes
Yopp Singer Test of Phoneme Segmentation	Reading Research Quarterly	Free	7 min.	Easy	Pre K-2	5	Criterion	A-level	English	Global	Indiv	Screen	Yes

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:258 (February 2000).

§1307. Multisensory Structured Language Programs for Students with Dyslexia or "At Risk" Readers
Appendix B

Name or Program	Target Population	Student Materials	Teacher Materials	Cost	Training Needed
Alphabetic Phonics	Grades 2 - adult	Student Book Alphabet Exercises & Rev Progress Measurements Supplementary Supplies Let's Read Books	Teacher's Guide Alphabet Acariases & Rev Progress Measurements	\$115/Class \$36/child	150 instructional hours 700 clinical teach hours \$1200/teacher course fee Fees based on desired curriculum Call for pricing
Intermediate Essential Language Structures Program (785) 271-6668	Grades 5 - 12	Intermediate Practice Cards Intermediate Wordbook Intermediate Student Assignment Sheets Writing Skills I & II Syllable Power Book I Syllable Power Book II	Teachers Manual GE Test of Coding Skills	\$121	10 days @ \$800/day
Language! (850) 934-0554	Grades 1- 12	J & J Language Readers 9 student books Vocabulary cards Sounds & Letters	Instructor's Manual	\$360	4 days @ \$1500/day

Language Circle 1-800-450-0343 Project Read Strand 2 Linguistics Project Read-Strand 3 Comprehension Project Read Strand 4 Written Expression	Grades 1- 4 Grades 4 - 8 Grades 4 - 8 Grades 1- adult	Decidable Text Controlled Readers Affix Card Pack Controlled readers/stories Narrative & expository text Sentence Frames	Phonology Guide Lesson Plan Books Phonology Kit Affix Guide Linguistics Guide Story Form Guide Report Form Guide Framing Your Thoughts Guide	\$350 \$115 \$115 \$125	4 days w/certified consultant @ \$1300/day 2 days @ \$1300 a day 4 days w/certified consultant @ \$1300/day 3 days @ \$1300/day
Slingerland (206) 453-1190	Grades 1 - 12	Student Spelling Book	Manual for Manuscript Manual for Cursive Teacher's Word Lists Phonogram Chart Alphabet Wall Cards	\$200	2 to 4 week sessions @ 4688/teacher
Wilson Language Training 1 (800) 899-8454	Grades 2 - 12	Student Readers Grades 1- 12 Student Workbooks Stories for Students	Instructor's Manual Dictation Books Rules Notebook Sound (Phoneme) Cards Word Cards Syllable Cards Group Sound Cards Videos	Standard \$229 Delux \$439	2-4 days @ \$1000/day

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:262 (February 2000).

§1309. Characteristics Associated with Dyslexia and Related Disorders¹ Appendix C

- A. Lack of or limited phonological awareness.
- B. Common error patterns in reading and learning behaviors, such as:
 - 1. reading decoding inaccuracies in single words and nonsense words (e.g., detached syllables);
 - 2. slow reading rate;
 - 3. omissions of, or substitutions of, small words (e.g., a/the, of/for/from, three/there);
 - 4. reduced awareness of patterns in words;
 - 5. difficulties generalizing word and language patterns.
- C. Language (oral or written, receptive or expressive) is simplistic or poor in relation to other abilities.
- D. Errors in spontaneous spelling.
- E. Spontaneous written language is very simple or poor in comparison to spoken language.
- F. Spontaneous written language shows poor organization and mechanics
- G. Additional factors which may contribute to the above characteristics:
 - 1. family history of similar problems;
 - 2. late in learning to talk;
 - 3. receptive language skills are typically better than expressive;
 - 4. difficulty in finding the "right" word when speaking;
 - 5. difficulty in processing both oral and written language. May also affect foreign language acquisition;
 - 6. difficulty in learning to write the alphabet correctly in sequence;
 - 7. cramped or illegible handwriting;
 - 8. late in establishing preferred hand for writing;
 - 9. late in learning right and left and other directionality components such as up-down, front-behind, over-under, east-west and others;

10. problems in learning the concept of time and temporal sequencing: e.g., yesterday, tomorrow, days of the week, and months of the year;

11. reversal of letters or sequences of letters that are not developmentally appropriate;

12. difficulty in learning to decode and comprehend age appropriate written information;

13. slow reading speed;

14. difficulty in learning sound-letter correspondence;

15. difficulty in learning and remembering printed words;

16. repeated erratic spelling errors;

17. error proneness in reading;

18. word substitutions in oral reading;

19. difficulty identifying, blending, segmenting and manipulating phonemes;

20. losing ground on achievement or intelligence tests.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:263 (February 2000).

Weegie Peabody
Executive Director

0002#058

RULE

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

Air Fee Revisions
(LAC 33:III.207, 209, 211, and 223)(AQ195)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality regulations, LAC 33:III.207, 209, 211, and 223 (Log #AQ195).

The purpose of this rule is to incorporate fees for industry categories not previously in the Fee Schedule, but for which fees have previously been established under the negotiated fee procedures of the fee regulations. The rule change also includes changes in wording to make existing regulations easier to interpret. The changes will not increase any fee paid but should make the fee regulations easier to read and understand. The basis and rationale for this rule are to make the regulations easier to understand and implement. These changes are being made to address part of the fee regulations that the department and external users of the fees have found difficult to understand.

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

**Title 33
ENVIRONMENTAL QUALITY**

Part III. Air

Chapter 2. Rules and Regulations for the Fee System of the Air Quality Control Program

§207. Application Fees

No application or amendments thereto shall be processed prior to payment of a permit fee, when it is determined that a permit fee is due. No permit, license, registration, or variance, unless otherwise authorized by the secretary, shall be issued until the full amount of the fee has been paid and such check or draft has been accepted by the bank or drawee and the department's account has been credited with the amount of the fee, when it is determined that a permit fee is due.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:610 (September 1988), LR 19:1373 (October 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:264 (February 2000).

§209. Annual Fees

All parties conducting activities for which an annual maintenance fee is provided shall be subject to the payment of such fee by the due date indicated on the invoice. The annual maintenance fees are based on a state fiscal year from July 1 to June 30. All major and all minor sources that have been issued a permit for air pollution emissions shall pay an annual maintenance fee.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:611 (September 1988), LR 19:1373 (October 1993), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:17 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:264 (February 2000).

§211. Methodology

A. Formula to Apportion Fees

Air Toxics Permit Application Fee for Major Sources of Toxic Air Pollutants (Based on Type of Facility and on Rated Production Capacity/Throughput)	Surcharge of 10 Percent of the Permit Application Fee to be Charged When There is an Increase in Toxic Air Pollutant Emissions Above the Minimum Emission Rates (MER) Listed in LAC 33:III.5112. Table 51.1
Air Toxics Annual Emission Fee for major sources of toxic air pollutants (based on Air Toxic Pollutants emitted)	Variable
Air Toxics Permit Application Fee for major sources of toxic air pollutants (based on type of facility and on rated production capacity/throughput)	Variable
Annual Maintenance Fee (based on type of facility and on rated production capacity/throughput)	Variable
New Application Fee (based on type of facility and on rated production capacity/throughput)	
Major and Minor Modification Modified Permit Fee (based on type of facility and on rated production capacity/throughput)	Variable
PSD Application Fee (based on type of facility and on rated production capacity/throughput)	Surcharge of 50 percent of the application fee when a PSD permit application is being processed
"NESHAP" Maintenance Fee (based on type of facility and on rated production capacity/throughput)	Surcharge of 25 percent of the Annual Maintenance Fee for that particular process/plant to be added to the Annual Maintenance Fee
"NSPS" Maintenance Fee (based on type of facility and on rated production capacity/throughput)	Surcharge of 25 percent of the permit application fee to be charged for any permit application that includes the addition of new equipment subject to NSPS regulation

* * *

[See Prior Text in B]

1. All fees required by this Chapter are listed in LAC 33:III.223, Fee Schedule Listing, which shall be referred to as the Fee Schedule in the remainder of this Chapter. All persons required to obtain a new or modified permit shall be subject to a permit application fee (see Fee Schedule) unless otherwise exempted. This fee shall be submitted with any application for a new or modified permit. The annual maintenance fee for a new or modified source shall be paid during the fiscal year (July 1 to June 30) in which the process specified in the permit comes on line.

2. The Standard Industrial Classification (SIC) codes listed in the Fee Schedule shall be used to assist in the determination of the proper fees to assess.

3. The permit fee for sources or facilities with multiple processes shall be equal to the total amounts required by the individual processes involved, as listed in the Fee Schedule, unless the entire facility is covered by a single fee category.

[See Prior Text in B.4-5]

6. If a process is not listed in the Fee Schedule and is not a source type exempted from fees by this regulation, then the department shall assign a fee based on the most similar processes in the Fee Schedule and negotiated separately. If a process or facility is specifically listed in the Fee Schedule, then the fee cannot be negotiated. The department shall analyze each permit request to determine the number of processes involved and the permit fee associated with each.

7. Annually, the department shall reevaluate the Fee Schedule based upon the previous fiscal year's reasonable costs involved in the operation of the permit system and submit such revised schedule to the secretary for approval.

8. When a company withdraws its application and claims refund for the permit fee, no refund shall be made if the review of the application is essentially completed at the time of withdrawal. However, up to 50 percent refund may be made when the review has been initiated, but is not essentially completed.

9. Annual maintenance fees (AMF) are not prorated. If a facility operates any part of a year or at a reduced rate during the year, the full annual maintenance fee is still charged. In order for the annual maintenance fee to be cancelled, the facility must not operate at all during the year and the permit to operate for the facility must be cancelled and/or changes must be made to the process or facility in order to make the process or facility not subject to regulation by the department. The cancellation of the permit shall require that a new permit be issued before the facility could be operated again. Failure to pay the annual maintenance fee will cause the permit for the facility covered by the fee to be cancelled.

10. When a permanent shutdown occurs and a company properly notifies the department, by official change in the Emission Inventory Questionnaire (EIQ) and permit, then the maintenance fee would be dropped for that shutdown portion of the process/plant. This fee reduction or cancellation shall apply only in the fiscal years in which the shutdown portion of the plant or process did not operate at all. The EIQ and permit shall also need to be changed to delete the emissions from the shutdown portion of the plant or process before the start of the fiscal year in which the fee would have been charged.

11. For most fees listed in these regulations, the minor modification fee is equal to the annual maintenance fee (AMF). The major modification fee is three times the AMF, and the new application fee is five times the AMF. Minimum and maximum permit fees shall apply to all categories that have minimum and maximum AMF according to the following table.

Permit Fees	Minimum	Maximum
Minor modification	min. AMF	max. AMF
Major modification	3 x min. AMF	3 x max. AMF
New application	5 x min. AMF	5 x max. AMF

If the above ratio was not used to establish the major modification and new application fees for a category, then the actual ratio of major modification and new application fee to AMF shall be used.

12. NSPS fees may be waived when a PSD application fee is imposed.

13. The department shall determine the type of fee. This determination shall be based on the work load created by the permit application and shall be determined based on the factors described as follows:

a. New Application Fee. The new application fee shall be based on the new capacity when a new process or operation is added or the incremental increase in capacity when the capacity is increased by more than 80 percent. It applies when:

- i. a new facility is added;
- ii. a new operation in an existing facility is added;

or

iii. an existing operation is expanded by more than 80 percent in capacity.

b. Major Modification Fee. The major modification fee shall be based on the existing capacity when the capacity is increased by more than 40 percent and less than 80 percent. The applicant has the option to choose to base the major modification fee on the incremental capacity increase and using the new permit application rate in cases where the incremental increase is small compared to the existing capacity. In that case, the applicant can choose the smaller fee as long as it is larger than the minimum major modification fee listed for the category. In all cases, the minimum amount of the fee would be equal to or greater than the minimum major modification fee for the category. The major modification fee applies when:

- i. the modification will trigger PSD review;
- ii. the modification would have triggered PSD review without the use of contemporaneous emission reductions or banked emissions;

iii. the modification will increase emissions by 25 tons/year or more of nonattainment pollutant;

iv. the modification will change emissions over 100 tons/year of a criteria pollutant for which the standard has been attained; or

v. the modification will increase capacity of an existing operation at least by 40 percent and less than 80 percent.

c. Minor Modification Fee. The minor modification fee (based on existing capacity) applies when a modification is not qualified under new application fee or major modification fee. The minor modification fee shall be based on the existing capacity when the capacity is increased by less than 40 percent. The applicant has the option to choose to base the minor modification fee on the incremental capacity increase and using the new permit application rate in cases where the incremental increase is small compared to the existing capacity. In that case, the applicant can choose the smaller fee as long as it is larger than the minimum minor modification fee listed for the category. In all cases, the minimum amount of the fee would be equal to or greater than the minimum minor modification fee for the category.

d. If a permit modification is such that it does not increase capacity and changes emissions by less than 25 tons/year of all nonattainment pollutants, by less than 10 tons/year of an individual toxic air pollutant, by less than 25 tons/year of total toxic air pollutants, and by less than 100 tons/year of all other criteria (attainment) pollutants, then the permit fee shall be charged equal to the minimum minor

modification permit fee for each fee process category involved. If no minimum minor modification permit fee is listed in LAC 33:III.223, then the minimum minor modification fee is calculated as follows:

- i. if the minor modification fee is greater than \$800, then the minimum minor modification fee is equal to 25 percent of the minor modification fee;
- ii. if the minor modification fee is \$200 to \$800, then the minimum minor modification fee is \$200; and
- iii. if the minor modification fee is less than \$200, then the minimum minor modification fee is the same as the minor modification fee.
- e. Small Source Permit. The small source permit, as defined by LAC 33:III.503.B.2, applies when a permitted source is not a major source. The permitted source must also emit and have the potential to emit less than 25 tons/year of any regulated pollutant. For permit applications with processes specifically listed in the fee schedule that would also qualify for the small source permit fee, the permit fee shall be the lesser of these listed fees.

14. Air Toxics Annual Emission Fees shall be assessed on major sources of toxic air pollutants based on

actual annual emissions that occurred during the previous calendar year.

15. For permits issued under LAC 33:III.507 (Title V permits) the following applies:

- a. no application fee shall be charged for the initial permit provided no modifications are being made at the facility; and
- b. no application fee shall be charged for renewals of permits issued provided no modifications are being made at the facility.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:611 (September 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), LR 18:706 (July 1992), LR 19:1373 (October 1993), LR 19:1419 (November 1993), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:17 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:264 (February 2000).

§223. Fee Schedule Listing

FEE SCHEDULE LISTING						
Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application	Modified Permit Fees	
					Major	Minor
*** [See Prior Text in Fee Number 0010]						
0015 *Note 20*	Iron Ore Processing per Million Dollars in Capital Cost	1011	40.00	200.00	120.00	40.00
*** [See Prior Text in Fee Numbers 0020-0030]						
0040	Crude Oil and Natural Gas Production (Less than 100 T/Yr Source)	1311	68.00	340.00	204.00	68.00
0041	Crude Oil and Natural Gas Production (equal to or greater than 100 T/Yr and less than 250 T/Yr Source)	1311	114.00	573.00	344.00	114.00
0042	Crude Oil and Natural Gas Production 250 T/Yr to 500 T/Yr Source	1311	354.00	1769.00	1061.00	354.00
0043	Crude Oil and Natural Gas Production Greater than 500 T/Yr Source	1311	589.00	2358.00	1769.00	589.00
*** [See Prior Text in Fee Numbers 0050-0770]						
0773	Fiberglass Swimming Pools	NA	201.00	1003.00	602.00	201.00
*** [See Prior Text in Fee Numbers 0775-1190]						
1193	Commercial Laundry, Dry Cleaning, and Pressing Machines	3582	429.00	2148.00	1290.00	429.00
*** [See Prior Text in Fee Numbers 1195-1521]						
1525	Sanitary Landfill per Million Mg of Planned Capacity	4953 MIN	100.00 200.00	500.00 1000.00	300.00 600.00	100.00 200.00
*** [See Prior Text in Fee Numbers 1530-1590]						
1600	Bulk Loader: Over 100,000 Ton/Yr Throughput	5153	2864.00	14327.00	8596.00	2864.00
1610 *Note 14a*	Bulk Loader: Less than or equal to 100,000 and more than 25,000 Ton/Yr Throughput	5153	1433.00	7163.00	4298.00	1433.00
1611 *Note 14a*	Bulk Loader: 25,000 Ton/Yr or Less Throughput	5153	816.00	4082.00	2449.00	816.00

1612 *Note 14a*	Bulk Loader - No Grain or Dusty Materials Transfer	5153	544.00	2721.00	1632.00	544.00
* * *						
[See Prior Text in Fee Numbers 1620-1720]						
1722	Small Source Permit	N/A	108.00	540.00	324.00	108.00

Additional Fees		
Fee Number	Fee Description	Amount
2000	Company Ownership/Operator Change or Name Change of an Existing Permit	113.00
2010	The Issuance or Denial of Relocation, Administrative Amendments, Variances, Authorization to Construct, Change of Tank Service, Research & Development, and Exemptions	226.00
2015 *Note 15*	The Issuance or Denial of Relocation, Administrative Amendments, Variances, Authorization to Construct, Change of Tank Service, Research & Development, and Exemptions for Small Business Sources	108.00
* * *		
[See Prior Text in Fee Numbers 2020-2914]		

Explanatory Notes for Fee Schedule
* * *

[See Prior Text in Note 1-12]

Note 13. Fees will be determined by aggregating actual annual emissions of each class of toxic air pollutants (as delineated in LAC 33:III.Chapter 51.Table 51.1) for a facility and applying the appropriate fee schedule for that class. Fees shall not be assessed for emissions of a single toxic air pollutant over and above 4,000 tons per year from a facility. The minimum fee for this category shall be \$100.

Note 14. Fees will not be assessed for emissions of a single criteria pollutant over and above 4,000 tons per year from a facility. Criteria fees will be assessed on actual annual emissions which occurred during the previous calendar year. The minimum fee for this category shall be \$100.

Note 14a. The throughput of these categories shall be based on the amount of grain or other materials that are known to produce significant amounts of particulate emissions. The determination of which materials or grains are considered as dusty materials is based on the material having similar emission factors to grain or having similar properties that can be used to estimate potential emissions.

* * *

[See Prior Text in Note 15]

Note 16. The choice of which program level applies is based on the highest level assigned to any process at the facility that applies at any time during the state fiscal year for which the invoice is being prepared (Program 3 being the highest). This annual maintenance fee is charged based on a state fiscal year from July to June.

* * *

[See Prior Text in Notes 17-Processing Timelines Table]

Note 20. This fee category applies to facilities that use a direct reduction process to process iron ore. The fees are based on the capital cost of the facility. In determination of fees for this fee category, the capital cost shall be used in the same manner as the capacity in other fee categories.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054, 30:2341 and 30:2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:613 (September 1988), LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December, 1991), repromulgated LR 18:31 (January 1992), amended LR 18:706 (July 1992), LR 18:1256 (November 1992), LR 19:1373 (October 1993), LR 19:1420 (November 1993), LR 19:1564 (December 1993), LR 20:421 (April 1994), LR 20:1263 (November 1994), LR 21:22 (January 1995), LR 21:782 (August 1995), LR 21:942 (September 1995), repromulgated LR 21:1080 (October 1995), amended LR 21:1236 (November 1995), LR 23:1496 (November 1997), LR 23:1499 (November 1997), LR 23:1662 (December 1997), amended by the

Office of Environmental Assessment, Environmental Planning Division, LR 26:267 (February 2000).

James H. Brent, Ph.D.
Assistant Secretary

0002#126

RULE

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

RCRA IX Package
(LAC 33:V Chapters 1, 3, 5, 15,17,
22, 26, 33, 38, 41, and 43)(HW072)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste regulations, LAC 33:V.Chapters 1, 3, 5, 15, 17, 22, 26, 33, 38, 41, and 43 (Log #HW072*).

This rule is identical to federal regulations found in 63 FR 42110-42189, 46332-46334, 47410-47418, 51254-51267, 54356-54357, 56710-56735, 65874-65947, and 71225-71230; and 64 FR 3382, 6806, 25408-25417, and 26315-26327, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rule covers the adoption of rules in the RCRA IX package for authorization for portions of the RCRA C program. The specific topics include the following titles: Petroleum Refining Process Wastes; land Disposal Restrictions Phase IV-Zinc Micronutrient Fertilizers, Administrative Stay; Emergency Revision of the Land Disposal Restrictions (LDR) Treatment Standards for Listed Hazardous Wastes from Carbamate Production; Land Disposal Restrictions Phase IV-Extension of Compliance date for Characteristic Slags; Land Disposal Restrictions-Treatment Standards for Spent Potliners from Primary Aluminum Reduction (K088); Post-Closure Requirements

and Closure Process; HWIR-Media; Universal Waste Rule-Technical Amendments; Organic Air Emission Standards-Clarification and Technical Amendments; Petroleum Refining Process Wastes-Leachate Exemption; Land Disposal Restrictions Phase IV-Technical Corrections and Clarifications to Treatment Standards; Organic Air Emission Standards - Clarification and Technical Amendments. The hazardous waste regulations for the state must be equivalent to the federal regulations in order for the state to be authorized for the new portions of the RCRA program. The basis and rationale for this rule are to adopt recently promulgated regulations in order to maintain equivalency with the federal regulations.

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

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality Hazardous Waste

Chapter 1. General Provisions and Definitions

§105. Program Scope

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

[See Prior Text in A - D.1.k]

i. oil-bearing hazardous secondary materials (i.e., sludges, by-products, or spent materials) that are generated at a petroleum refinery (SIC code 2911) and are inserted into the petroleum refining process (SIC code 2911) including, but not limited to, distillation, catalytic cracking, fractionation, or thermal cracking units (i.e., cokers) unless the material is placed on the land or speculatively accumulated before being so recycled. Materials inserted into thermal cracking units are excluded under this Paragraph, provided that the coke product also does not exhibit a characteristic of hazardous waste. Oil-bearing hazardous secondary materials may be inserted into the same petroleum refinery where they are generated, or sent directly to another petroleum refinery, and still be excluded under this provision. Except as provided in Subsection D.1.l.ii of this Section, oil-bearing hazardous secondary materials generated elsewhere in the petroleum industry (i.e., from sources other than petroleum refineries) are not excluded under this Section. Residuals generated from processing or recycling materials excluded under this Subsection, where such materials as generated would have otherwise met a listing under LAC 33:V.Chapter 49, are designated as F037 listed wastes when disposed of or intended for disposal;

[See Prior Text in D.1.l.ii - D.1.o]

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

[See Prior Text in D.1.p.i - D.1.p.iv.(c)]

v. the owner or operator provides a notice to the administrative authority identifying the following information: the types of materials to be recycled; the type and location of the storage units and recycling processes; and the annual quantities expected to be placed in non-land-based units. This notification must be updated when there is a change in the type of materials recycled or the location of the recycling process; and

[See Prior Text in D.1.p.vi. - D.1.r.i]

ii. the oil generated by the organic chemical manufacturing facility is not placed on the land, or speculatively accumulated before being recycled into the petroleum refining process. An *associated organic chemical manufacturing facility* is a facility: where the primary SIC code is 2869, but where operations may also include SIC codes 2821, 2822, and 2865; and is physically co-located with a petroleum refinery; and where the petroleum refinery to which the oil being recycled is returned also provides hydrocarbon feedstocks to the organic chemical manufacturing facility. *Petrochemical recovered oil* is oil that has been reclaimed from secondary materials (i.e., sludges, by-products, or spent materials, including wastewater) from normal organic chemical manufacturing operations, as well as oil recovered from organic chemical manufacturing processes;

[See Prior Text in D.1.s - D.2.h.ii.(t)]

iii. a residue derived from coprocessing mineral processing secondary materials with normal beneficiation raw materials or with normal mineral processing raw materials remains excluded under Paragraph 2. h.iii.(b) of this Subsection if the owner or operator:

(a). processes at least 50 percent by weight normal beneficiation raw materials or normal mineral processing raw materials; and

(b). legitimately reclaims the secondary mineral processing materials;

[See Prior Text in D.2.i. - o]

p. Leachate or gas condensate collected from landfills where certain solid wastes have been disposed, provided that:

i. the solid wastes disposed would meet one or more of the listing descriptions for Hazardous Waste Codes K169, K170, K171, and K172 if these wastes had been generated after the effective date of the listing (February 8, 1999);

ii. the solid wastes described in Paragraph 2.p.i of this Subsection were disposed prior to the effective date of the listing;

iii. the leachate or gas condensate do not exhibit any characteristic of hazardous waste nor are derived from any other listed hazardous waste;

iv. discharge of the leachate or gas condensate, including leachate or gas condensate transferred from the landfill to a POTW by truck, rail, or dedicated pipe, is subject to regulation under sections 307(b) or 402 of the Clean Water Act; and

v. after February 13, 2001, the leachate or gas condensate will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge. There is one exception: if the surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situation (e.g., shutdown of wastewater treatment system), provided the impoundment has a double liner, and provided the leachate or gas condensate is removed from the impoundment and continues to be managed in compliance with the conditions of Paragraph 2 of this Subsection after the emergency ends.

[See Prior Text in D.3 - D.8]

9. Dredged Material That is Not a Hazardous Waste. Dredged material that is subject to the requirements of a permit that has been issued under Section 404 of the Federal Water Pollution Control Act (33 U.S.C.1344) or section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413) is not a hazardous waste. For this Subsection, the following definitions apply:

a. the term dredged material has the same meaning as defined in 40 CFR 232.2; and

b. the term permit means:

i. a permit issued by the U.S. Army Corps of Engineers (Corps) or an approved state under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344);

ii. a permit issued by the Corps under section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413); or

iii. in the case of Corps civil works projects, the administrative equivalent of the permits referred to in Paragraph 9.b.i and ii of this Subsection, as provided for in Corps regulations (for example, see 33 CFR 336.1, 336.2, and 337.6).

[See Prior Text in E - O.2.c.vi]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217 (March 1990), LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362 (April 1991), LR 17:368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813 (September 1996), LR 22:831 (September 1996), amended by the Office of the Secretary, LR 23:298 (March 1997), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:564 (May 1997), LR 23:567 (May 1997), LR 23:721 (June 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), LR 23:1511 (November 1997), LR 24:298

(February 1998), LR 24:655 (April 1998), LR 24:1093 (June 1998), LR 24:1687 (September 1998), LR 24:1759 (September 1998), LR 25:431(March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:268 (February 2000).

§109. Definitions

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

[See Prior Text]

Corrective Action Management Unit (CAMU) an area within a facility that is used only for managing remediation wastes for implementing corrective action or cleanup at the facility.

[See Prior Text]

Facility

[See Prior Text in 1 - 2]

3. notwithstanding Paragraph 2 of this definition, a remediation waste management site is not a facility that is subject to LAC 33:V.3322, but is subject to corrective action requirements if the site is located within such a facility.

[See Prior Text]

Miscellaneous Unit a hazardous waste management unit where hazardous waste is treated, stored, or disposed of and that is not a container, tank, surface impoundment, pile, land treatment unit, landfill, incinerator, boiler, industrial furnace, underground injection well (with appropriate technical standards under 40 CFR part 146), containment building, corrective action management unit, unit eligible for a research, development, and demonstration permit under LAC 33:V.329, or staging pile.

[See Prior Text]

Remedial Action Plan (RAP) a special form of RCRA permit that a facility owner or operator may obtain instead of a permit issued under LAC 33:V.303 - 329 and 501 - 537, to authorize the treatment, storage, or disposal of hazardous remediation waste (as defined in this Section) at a remediation waste management site.

Remediation Waste all solid and hazardous wastes, and all media (including groundwater, surface water, soils, and sediments) and debris that contain listed hazardous wastes or that themselves exhibit a hazardous waste characteristic and are managed for implementing cleanup.

Remediation Waste Management Site a facility where an owner or operator is or will be treating, storing, or disposing of hazardous remediation wastes. A remediation waste management site is not a facility that is subject to corrective action under LAC 33:V.3322, but is subject to corrective action requirements if the site is located in such a facility.

[See Prior Text]

Solid Waste

[See Prior Text in 1 - 5.a.ii]

iii. returned to the original process from which they are generated, without first being reclaimed or land

disposed. The material must be returned as a substitute for feedstock materials. In cases where the original process to which the material is returned is a secondary process, the materials must be managed such that there is no placement on land. In cases where the materials are generated and reclaimed within the primary mineral processing industry, the conditions of the exclusion found at LAC 33:V.105.D.1.p apply rather than this Paragraph.

[See Prior Text]

Staging Pile an accumulation of solid, nonflowing remediation waste (as defined in this Section) that is not a containment building and that is used only during remedial operations for temporary storage at a facility Staging piles must be designated by the administrative authority according to the requirements of LAC 33:V.2605.

[See Prior Text]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:47 (January 1990), LR 16:218 (March 1990), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 19:626 (May 1993), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:655 (April 1998), LR 24:1101 (June 1998), LR 24:1688 (September 1998), LR 25:433 (March 1999), repromulgated LR 25:853 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:269 (February 2000).

§110. References

[See Prior Text in A - A.10]

11. "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA Publication SW-846 [Third Edition (November 1986), as amended by Updates I (July 1992), II (September 1994), IIA (August 1993), IIB (January 1995), III (December 1996), and IIIA (April 1998)]. The Third Edition of SW-846 and Updates I, II, IIA, IIB, and III (document number 955-001-00000-1) are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512-1800. Update IIIA is available through EPA's Methods Information Communication Exchange (MICE) Service. MICE can be contacted by phone at (703) 821-4690. Update IIIA can also be obtained by contacting the U.S. Environmental Protection Agency, Office of Solid Waste (5307W), OSW Methods Team, 401 M Street, SW, Washington, DC, 20460. Copies of the Third Edition and its updates are also available from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, (703) 487-4650. Copies may be inspected at the Library, U.S. Environmental Protection

Agency, 401 M Street, SW, Washington, DC 20460, or at the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC;

[See Prior Text A.12 - A.14]

15. "ASTM Standard Test Method for Vapor Pressure^c Temperature Relationship and Initial Decomposition Temperature of Liquids by Isotenoscope," ASTM Standard D 2879-92, available from American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, Pennsylvania 19103;

16. The OECD Green List of Wastes (revised May 1994), the Amber List of Wastes and Red List of Wastes (both revised May 1993) as set forth in Appendix 3, Appendix 4, and Appendix 5, respectively, to the OECD Council Decision C(92)39/FINAL (Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations). These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 on July 11, 1996. These materials are incorporated as they exist on the date of the approval and a notice of any change in these materials will be published in the *Federal Register*. The materials are available for inspection at: the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC; the U.S. Environmental Protection Agency, RCRA Information Center (RIC), 1235 Jefferson-Davis Highway, First Floor, Arlington, VA 22203 (Docket Number F-94-IEHF-FFFFF); and may be obtained from the Organization for Economic Cooperation and Development, Environment Directorate, 2 rue Andre Pascal, 75775 Paris Cedex 16, France; and

17. Method 1664, Revision A, n-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated n-Hexane Extractable Material (SGT-HEM; Non-Polar Material) by Extraction and Gravimetry. Available at NTIS, PB99-121949, U.S. Department of Commerce, 5285 Port Royal, Springfield, Virginia 22161.

[See Prior in Text B]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:814 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:656 (April 1998), LR 24:1690 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:270 (February 2000).

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

§322. Classification of Permit Modifications

The following is a listing of classifications of permit modifications made at the request of the permittee.

Modifications	Class

[See Prior Text in A - D.3.f]	
g. staging piles.	2

[See Prior Text in E - N.2]

3. Approval of a staging pile or staging pile operating term extension in accordance with LAC 33:V.2605. 2

¹Class 1 modifications requiring prior administrative authority approval.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 16:614 (July 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:815 (September 1996), amended by the Office of the Secretary, LR 24:2245 (December 1998), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:436 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:270 (February 2000).

Chapter 5. Permit Application Contents

Subchapter B. Signatories to Permit Applications and Reports, Changes of Authorizations, and Certifications

§513. Certification

A.1. Any person signing a document under LAC 33:V.507 or 509 shall make the following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision according to a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

2. For remedial action plans (RAPs) under LAC 33:V.Chapter 5.Subchapter G, if the operator certifies according to Subsection A.1 of this Section, then the owner may choose to make the following certification instead of the certification in Subsection A.1 of this Section: "Based on my knowledge of the conditions of the property described in the RAP and my inquiry of the person or persons who manage the system referenced in the operator's certification, or those persons directly responsible for gathering the information, the information submitted is, upon information and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

* * *

[See Prior Text in B]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 18:1256 (November 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:271 (February 2000).

Subchapter F. Special Forms of Permits

§540. Remedial Action Plans (RAPs)

Remedial action plans (RAPs) are special forms of permits that are regulated under LAC 33:V.Chapter 5.Subchapter G.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:271 (February 2000).

Subchapter G. Remedial Action Plans (RAPs) - General Information

§545. Why is this Subchapter Written in a Special Format?

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

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:271 (February 2000).

§550. What is a RAP?

A. A RAP is a special form of a RCRA permit that you, as an owner or operator, may obtain, instead of a permit issued under LAC 33:V.303-329 and 501-537, to authorize you to treat, store, or dispose of hazardous remediation waste (as defined in LAC 33:V.109) at a remediation waste management site. A RAP may only be issued for the area of contamination where the remediation wastes to be managed under the RAP originated, or areas in close proximity to the contaminated area, except as allowed in limited circumstances under LAC 33:V.699.

B. The requirements in LAC 33:V.303-329 and 501-537 do not apply to RAPs unless those requirements for traditional RCRA permits are specifically required under this Subchapter. The definitions in LAC 33:V.109 apply to RAPs.

C. Notwithstanding any other provision of LAC 33:V.Subpart 1, any document that meets the requirements in this Section constitutes a RCRA permit under RCRA section 3005(c).

D. A RAP may be:

1. a stand-alone document that includes only the information and conditions required by this Subchapter; or

2. part (or parts) of another document that includes information and/or conditions for other activities at the remediation waste management site, in addition to the information and conditions required by this Subchapter.

E. If you are treating, storing, or disposing of hazardous remediation wastes as part of a cleanup compelled by federal or state cleanup authorities, your RAP does not affect your obligations under those authorities in any way.

F. If you receive a RAP at a facility operating under interim status, the RAP does not terminate your interim status.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:271 (February 2000).

§555. When Do I Need a RAP?

A. Whenever you treat, store, or dispose of hazardous remediation wastes in a manner that requires a RCRA permit under LAC 33:V.Chapter 3, you must either obtain:

1. a RCRA permit according to LAC 33:V.303-329 and 501-537; or

2. a RAP according to this Subchapter.

B. Treatment units that use combustion of hazardous remediation wastes at a remediation waste management site are not eligible for RAPs under this Subchapter.

C. You may obtain a RAP for managing hazardous remediation waste at an already permitted RCRA facility. You must have these RAPs approved as a modification to your existing permit according to the requirements of LAC 33:V.321-323 instead of the requirements in this Subchapter. When you submit an application for such a modification, however, the information requirements in LAC 33:V.321.C.1.a.i, 2.a.iv, and 3.a.iv do not apply; instead, you must submit the information required under LAC 33:V.580. When your permit is modified the RAP becomes part of the RCRA permit. Therefore, when your permit (including the RAP portion) is modified, revoked and reissued, terminated, or when it expires, it will be modified according to the applicable requirements in LAC 33:V.321-323, revoked and reissued according to the applicable requirements in LAC 33:V.323, terminated according to the applicable requirements in LAC 33:V.323, and expire according to the applicable requirements in LAC 33:V.315.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:271 (February 2000).

§560. Does My RAP Grant Me Any Rights or Relieve Me of Any Obligations?

The provisions of LAC 33:V.307 apply to RAPs.

(Note: The provisions of LAC 33:V.307.A provide you assurance that, as long as you comply with your RAP, the department will consider you in compliance with Subtitle C of RCRA and will not take enforcement actions against you. However, you should be aware of four exceptions to this provision that are listed in LAC 33:V.307.)

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:272 (February 2000).

§565. How Do I Apply for a RAP?

To apply for a RAP, you must complete an application, sign it, and submit it to the administrative authority according to the requirements in this Subchapter.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:272 (February 2000).

§570. Who Must Obtain a RAP?

When a facility or remediation waste management site is owned by one person, but the treatment, storage, or disposal activities are operated by another person, it is the operator's duty to obtain a RAP, except that the owner must also sign the RAP application.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:272 (February 2000).

§575. Who Must Sign the Application and Any Required Reports for a RAP?

Both the owner and the operator must sign the RAP application and any required reports according to LAC 33:V.507, 509, and 511. In the application, both the owner and the operator must also make the certification required in LAC 33:V.513.A. However, the owner may choose the

alternative certification under LAC 33:V.513.B if the operator certifies under LAC 33:V.513.A.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:272 (February 2000).

§580. What Must I Include in My Application for a RAP?

A. You must include the following information in your application for a RAP:

1. the name, address, and EPA identification number of the remediation waste management site;
2. the name, address, and telephone number of the owner and operator;
3. the latitude and longitude of the site;
4. the United States Geological Survey (USGS) or county map showing the location of the remediation waste management site;
5. a scaled drawing of the remediation waste management site showing:
 - a. the remediation waste management site boundaries;
 - b. any significant physical structures; and
 - c. the boundary of all areas on-site where remediation waste is to be treated, stored, or disposed;
6. a specification of the hazardous remediation waste to be treated, stored, or disposed of at the facility or remediation waste management site. This must include information on:
 - a. constituent concentrations and other properties of the hazardous remediation wastes that may affect how such materials should be treated and/or otherwise managed;
 - b. an estimate of the quantity of these wastes; and
 - c. a description of the processes you will use to treat, store, or dispose of this waste including technologies, handling systems, design, and operating parameters you will use to treat hazardous remediation wastes before disposing of them according to the LDR standards of LAC 33:V.Chapter 22, as applicable;
7. enough information to demonstrate that operations that follow the provisions in your RAP application will ensure compliance with applicable requirements of LAC 33:V.Chapters 15-37, 41, and 43;
8. such information as may be necessary to enable the administrative authority to carry out his duties under other state laws as is required for traditional RCRA permits under LAC 33:V.517.U; and
9. any other information the administrative authority decides is necessary for demonstrating compliance with this Subsection or for determining any additional RAP conditions that are necessary to protect human health and the environment.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:272 (February 2000).

§585. What If I Want to Keep This Information Confidential?

Provisions for confidential information may be found in LAC 33:I.Chapter 5.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:272 (February 2000).

§590. To Whom Must I Submit My RAP Application?

You must submit your application for a RAP to the administrative authority for approval.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:273 (February 2000).

§595. If I Submit My RAP Application as Part of Another Document, What Must I Do?

If you submit your application for a RAP as a part of another document, you must clearly identify the components of that document that constitute your RAP application.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:273 (February 2000).

§600. What Is the Process for Approving or Denying My Application for a RAP?

A. If the administrative authority tentatively finds that your RAP application includes all of the information required by LAC 33:V.580 and that your proposed remediation waste management activities meet the regulatory standards, the administrative authority may make a tentative decision to approve your RAP application. The administrative authority will then prepare a draft RAP and provide an opportunity for public comment before making a final decision on your RAP application, according to this Subchapter.

B. If the administrative authority tentatively finds that your RAP application does not include all of the information required by LAC 33:V.580 or that your proposed remediation waste management activities do not meet the regulatory standards, the administrative authority may request additional information from you or ask you to correct deficiencies in your application. If you fail or refuse to provide any additional information the administrative authority requests, or to correct any deficiencies in your RAP application, the administrative authority may make a tentative decision to deny your RAP application. After making this tentative decision, the administrative authority will prepare a notice of intent to deny your RAP application (*notice of intent to deny*) and provide an opportunity for public comment before making a final decision on your RAP application, according to the requirements in this Subchapter. The administrative authority may deny the RAP application either in its entirety or in part.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:273 (February 2000).

§605. What Must the Administrative Authority Include in a Draft RAP?

A. If the administrative authority prepares a draft RAP, it must include:

1. the information required under LAC 33:V.580.A. 1-9;

2. the following terms and conditions:

- a. terms and conditions necessary to ensure that the operating requirements specified in your RAP comply with applicable requirements of LAC 33:V.Chapters 15-37, 41, and 43 (including any recordkeeping and reporting requirements). In satisfying this provision, the administrative authority may incorporate, expressly or by reference, applicable requirements of LAC 33:V.Chapters 15-37, 41, and 43 into the RAP or establish site-specific conditions as required or allowed by LAC 33:V.Chapters 15-37, 41, and 43;

- b. terms and conditions in LAC 33.V.309;

- c. terms and conditions for modifying, revoking and reissuing, and terminating your RAP, as provided in LAC 33:V.640; and

- d. any additional terms or conditions that the administrative authority determines are necessary to protect human health and the environment, including any terms and conditions necessary to respond to spills and leaks during use of any units permitted under the RAP; and

3. if the draft RAP is part of another document, as described in LAC 33:V.550, the administrative authority must clearly identify the components of that document that constitute the draft RAP.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:273 (February 2000).

§610. What Else Must the Administrative Authority Prepare in Addition to the Draft RAP or Notice of Intent to Deny?

A. Once the administrative authority has prepared the draft RAP or notice of intent to deny, he must then:

1. prepare a statement of basis that briefly describes the derivation of the conditions of the draft RAP and the reasons for them, or the rationale for the notice of intent to deny;

2. compile an administrative record, including:

- a. the RAP application and any supporting data furnished by the applicant;

- b. the draft RAP or notice of intent to deny;

- c. the statement of basis and all documents cited therein (material readily available at the department or published material that is generally available need not be physically included with the rest of the record, as long as it is specifically referred to in the statement of basis); and

- d. any other documents that support the decision to approve or deny the RAP; and

3. make information contained in the administrative record available for review by the public upon request.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:273 (February 2000).

§615. What Are the Procedures for Public Comment on the Draft RAP or Notice of Intent to Deny?

A. The administrative authority must:

1. send notice to you of his intention to approve or deny your RAP application, and send you a copy of the statement of basis;

2. publish a notice of his intention to approve or deny your RAP application in a major local newspaper of general circulation;

3. broadcast his intention to approve or deny your RAP application over a local radio station; and

4. send a notice of his intention to approve or deny your RAP application to each unit of local government having jurisdiction over the area in which your site is located and to each state agency having any authority under state law with respect to any construction or operations at the site.

B. The notice required by Subsection A of this Section must provide an opportunity for the public to submit written comments on the draft RAP or notice of intent to deny within at least 45 days.

C. The notice required by Subsection A of this Section must include:

1. the name and address of the office processing the RAP application;

2. the name and address of the RAP applicant, and if different, the remediation waste management site or activity the RAP will regulate;

3. a brief description of the activity the RAP will regulate;

4. the name, address, and telephone number of a person from whom interested persons may obtain further information, including copies of the draft RAP or notice of intent to deny, statement of basis, and the RAP application;

5. a brief description of the comment procedures in this Section, and any other procedures by which the public may participate in the RAP decision;

6. if a hearing is scheduled, the date, time, location, and purpose of the hearing;

7. if a hearing is not scheduled, a statement of procedures to request a hearing;

8. the location of the administrative record, and times when it will be open for public inspection; and

9. any additional information the administrative authority considers necessary or proper.

D. If, within the comment period, the administrative authority receives written notice of opposition to his intention to approve or deny your RAP application and a request for a hearing, the administrative authority must hold an informal public hearing to discuss issues relating to the approval or denial of your RAP application. The administrative authority may also determine on his own initiative that an informal hearing is appropriate. The hearing must include an opportunity for any person to present written or oral comments. Whenever possible, the administrative authority must schedule this hearing at a location convenient to the nearest population center to the remediation waste management site and give notice according to the requirements in Subsection A of this Section. This notice must, at a minimum, include the information required by Subsection C of this Section and:

1. reference to the date of any previous public notices relating to the RAP application;

2. the date, time, and location of the hearing; and

3. a brief description of the nature and purpose of the hearing, including the applicable rules and procedures.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:273 (February 2000).

§620. How Will the Administrative Authority Make a Final Decision on My RAP Application?

A. The administrative authority must consider and respond to any significant comments raised during the public comment period, or during any hearing on the draft RAP or notice of intent to deny, and revise your draft RAP based on those comments, as appropriate.

B. If the administrative authority determines that your RAP includes the information and terms and conditions required in LAC 33:V.605, then he may issue a final decision approving your RAP and, in writing, notify you and all commenters on your draft RAP that your RAP application has been approved.

C. If the administrative authority determines that your RAP does not include the information required in LAC 33:V.605, then he will issue a final decision denying your RAP and, in writing, notify you and all commenters on your draft RAP that your RAP application has been denied.

D. If the administrative authority's final decision is that the tentative decision to deny the RAP application was incorrect, he will withdraw the notice of intent to deny and proceed to prepare a draft RAP, according to the requirements in this Subchapter.

E. When the administrative authority issues his final RAP decision, he must refer to the procedures for appealing the decision under R.S. 30:2024.

F. Before issuing the final RAP decision, the administrative authority must compile an administrative record. Material readily available at the department or published materials which are generally available and which are included in the administrative record need not be physically included with the rest of the record as long as it is specifically referred to in the statement of basis or the response to comments. The administrative record for the final RAP must include information in the administrative record for the draft RAP (see LAC 33:V.610.B) and:

1. all comments received during the public comment period;

2. tapes or transcripts of any hearings;

3. any written materials submitted at these hearings;

4. the responses to comments;

5. any new material placed in the record since the draft RAP was issued;

6. any other documents supporting the RAP; and

7. a copy of the final RAP.

G. The administrative authority must make information contained in the administrative record available for review by the public upon request.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:274 (February 2000).

§640. After My RAP is Issued, How May it be Modified, Revoked and Reissued, or Terminated?

In your RAP, the administrative authority must specify, either directly or by reference, procedures for future

modifications, revocations and reissuance, or terminations of your RAP. These procedures must provide adequate opportunities for public review and comment on any modification, revocation and reissuance, or termination that would significantly change your management of your remediation waste, or that otherwise merits public review and comment. If your RAP has been incorporated into a traditional RCRA permit, as allowed under LAC 33:V.555.C, then the RAP will be modified according to the applicable requirements in LAC 33:V.321-323.B.2, revoked and reissued according to the applicable requirements in LAC 33:V.321 and 323.B.3, or terminated according to the applicable requirements of LAC 33:V.323.B.3.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:274 (February 2000).

§645. For What Reasons May the Administrative Authority Choose to Modify My Final RAP?

A. The administrative authority may modify your final RAP on his own initiative only if one or more of the following reasons listed in this Section exist(s). If one or more of these reasons do not exist, then the administrative authority will not modify your final RAP, except at your request. Reasons for modification are:

1. you made material and substantial alterations or additions to the activity that justify applying different conditions;
2. the administrative authority finds new information that was not available at the time of RAP issuance and would have justified applying different RAP conditions at the time of issuance;
3. the standards or regulations on which the RAP was based have changed because of new or amended statutes, standards, or regulations, or by judicial decision after the RAP was issued;
4. if your RAP includes any schedules of compliance, the administrative authority may find reasons to modify your compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which you as the owner/operator have little or no control and for which there is no reasonably available remedy;
5. you are not in compliance with conditions of your RAP;
6. you failed in the application or during the RAP issuance process to disclose fully all relevant facts, or you misrepresented any relevant facts at the time;
7. the administrative authority has determined that the activity authorized by your RAP endangers human health or the environment and can only be remedied by modifying; or
8. you have notified the administrative authority (as required in the RAP under LAC 33:V.321.B) of a proposed transfer of a RAP.

B. Notwithstanding any other provision in this Section, when the administrative authority reviews a RAP for a land disposal facility under LAC 33:V.665, he may modify the permit as necessary to assure that the facility continues to comply with the currently applicable requirements in LAC 33:V.Subpart 1.

C. The administrative authority will not reevaluate the suitability of the facility location at the time of RAP

modification unless new information or standards indicate that a threat to human health or the environment exists that was unknown when the RAP was issued.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:275 (February 2000).

§650. For What Reasons May the Administrative Authority Choose to Revoke and Reissue My Final RAP?

A. The administrative authority may revoke and reissue your final RAP on his own initiative only if one or more reasons for revocation and reissuance exist(s). If one or more reasons do not exist, then the administrative authority will not modify or revoke and reissue your final RAP, except at your request. Reasons for modification or revocation and reissuance are the same as the reasons listed for RAP modifications in LAC 33:V.645.A.5-8 if the administrative authority determines that revocation and reissuance of your RAP is appropriate.

B. The administrative authority will not reevaluate the suitability of the facility location at the time of RAP revocation and reissuance unless new information or standards indicate that a threat to human health or the environment exists that was unknown when the RAP was issued.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:275 (February 2000).

§655. For What Reasons May the Administrative Authority Choose to Terminate My Final RAP, or Deny My Renewal Application?

The administrative authority may terminate your final RAP on his own initiative, or deny your renewal application, for the same reasons as those listed for RAP modifications in LAC 33:V.645.A.5-7 if the administrative authority determines that termination of your RAP or denial of your RAP renewal application is appropriate.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:275 (February 2000).

§665. When Will My RAP Expire?

RAPs must be issued for a fixed term, not to exceed 10 years, although they may be renewed upon approval by the administrative authority in fixed increments of no more than ten years. In addition, the administrative authority must review any RAP for hazardous waste land disposal five years after the date of issuance or reissuance, and you or the administrative authority must follow the requirements for modifying your RAP as necessary to assure that you continue to comply with currently applicable requirements in RCRA sections 3004 and 3005.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:275 (February 2000).

§670. How May I Renew My RAP if it is Expiring?

If you wish to renew your expiring RAP, you must follow the process for application for and issuance of RAPs in this Subchapter.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:276 (February 2000).

§675. What Happens if I Have Applied Correctly for a RAP Renewal But Have Not Received Approval By the Time My Old RAP Expires?

If you have submitted a timely and complete application for a RAP renewal, but the administrative authority, through no fault of yours, has not issued a new RAP with an effective date on or before the expiration date of your previous RAP, your previous RAP conditions continue in force until the effective date of your new RAP or RAP denial.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:276 (February 2000).

§680. What Records Must I Maintain Concerning My RAP?

A. You are required to keep records of:

1. all data used to complete RAP applications and any supplemental information that you submit for a period of at least three years from the date the application is signed; and

2. any operating and/or other records the administrative authority requires you to maintain as a condition of your RAP.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:276 (February 2000).

§685. How Are Time Periods In the Requirements in This Subchapter and My RAP Computed?

A. Any time period scheduled to begin on the occurrence of an act or event must begin on the day after the act or event. (For example, if your RAP specifies that you must close a staging pile within 180 days after the operating term for that staging pile expires, and the operating term expires on June 1, then June 2 counts as day one of your 180 days, and you would have to complete closure by November 28.)

B. Any time period scheduled to begin before the occurrence of an act or event must be computed so that the period ends on the day before the act or event. (For example, if you are transferring ownership or operational control of your site, and wish to transfer your RAP, the new owner or operator must submit a revised RAP application no later than 90 days before the scheduled change. Therefore, if you plan to change ownership on January 1, the new owner/operator must submit the revised RAP application no later than October 3, so that the 90th day would be December 31.)

C. If the final day of any time period falls on a weekend or legal holiday, the time period must be extended to the next working day. (For example, if you wish to request an administrative hearing on the administrative authority's decision to modify your RAP, then you must file your request with the secretary within 30 days after notice of the decision is served upon you. If the thirtieth day falls on

Sunday, then you may submit your appeal by the Monday after. If the thirtieth day falls on July 4, then you may submit your appeal by July 5.)

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:276 (February 2000).

§690. How May I Transfer My RAP to a New Owner or Operator?

A. If you wish to transfer your RAP to a new owner or operator, you must follow the requirements specified in your RAP for RAP modification to identify the new owner or operator, and incorporate any other necessary requirements. These modifications do not constitute *significant* modifications for purposes of LAC 33:V.640. The new owner/operator must submit a revised RAP application no later than 90 days before the scheduled change along with a written agreement containing a specific date for transfer of RAP responsibility between you and the new permittees.

B. When a transfer of ownership or operational control occurs, you as the old owner or operator must comply with the applicable requirements in LAC 33:V.Chapter 37 (financial requirements), until the new owner or operator has demonstrated that he is complying with the requirements in that chapter. The new owner or operator must demonstrate compliance with LAC 33:V.Chapter 37 within six months of the date of the change in ownership or operational control of the facility or remediation waste management site. When the new owner/operator demonstrates compliance with LAC 33:V.Chapter 37 to the administrative authority, the administrative authority will notify you that you no longer need to comply with LAC 33:V.Chapter 37, as of the date of demonstration.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:276 (February 2000).

§695. What Must the State or EPA Region Report About Noncompliance with RAPs?

The department or EPA region must report noncompliance with RAPs according to the provisions of 40 CFR 270.5.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:276 (February 2000).

§699. May I Perform Remediation Waste Management Activities Under a RAP at a Location Removed from the Area Where the Remediation Wastes Originated?

A. You may request a RAP for remediation waste management activities at a location removed from the area where the remediation wastes originated if you believe such a location would be more protective than the contaminated area or areas in close proximity.

B. If the administrative authority determines that an alternative location, removed from the area where the remediation waste originated, is more protective than managing remediation waste at the area of contamination or areas in close proximity, then the administrative authority may approve a RAP for this alternative location.

C. You must request the RAP, and the administrative authority will approve or deny the RAP, according to the procedures and requirements in this Subchapter.

D. A RAP for an alternative location must also meet the following requirements, which the administrative authority must include in the RAP for such locations:

1. the RAP for the alternative location must be issued to the person responsible for the cleanup from which the remediation wastes originated;
2. the RAP is subject to the expanded public participation requirements in LAC 33:V.708;
3. the RAP is subject to the public notice requirements in LAC 33:V.717; and
4. the site permitted in the RAP may not be located within 61 meters or 200 feet of a fault which has had displacement in the Holocene time (you must demonstrate compliance with this standard through the requirements in LAC 33:V.517.T). (See definitions of terms in LAC 33:V.109);

[Note to Paragraph 4 of this Subsection: sites located in a political jurisdiction other than those listed in Appendix VI of 40 CFR 264 are assumed to be in compliance with this requirement.]

E. These alternative locations are remediation waste management sites and retain the following benefits of remediation waste management sites:

1. exclusion from facility-wide corrective action under LAC 33:V.3322; and
2. application of LAC 33:V.1501.H in lieu of LAC 33:V.Chapter 15.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:276 (February 2000).

Chapter 11. Generators

§1109. Pre-Transport Requirements

* * *

[See Prior Text in A - E.1.a]

- i. in containers and the generator complies with the applicable requirements of LAC 33:V.Chapter 43.Subchapters H, Q, R, and V; and/or
- ii. in tanks and the generator complies with the applicable requirements of LAC 33:V.Chapter 43.Subchapters I, Q, R, and V, except LAC 33:V.4442 and 4445 ; and/or

* * *

[See Prior Text in E.1.a.iii - 7.d.iv.(c).(v)]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 13:433 (August 1987), LR 16:47 (January 1990), LR 16:220 (March 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24.1693 (September 1998), LR 25:437 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1466 (August 1999), LR 26:277 (February 2000).

Chapter 15. Treatment, Storage, and Disposal Facilities

§1501. Applicability

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[See Prior Text in A - G]

H. The requirements of LAC 33:V.1105, 1503, 1504, 1507, 1509, 1511, 1513, 1515, 1517, 1519, and 3322 do not apply to remediation waste management sites. (However, some remediation waste management sites may be a part of a facility that is subject to a traditional RCRA permit because the facility is also treating, storing, or disposing of hazardous wastes that are not remediation wastes. In these cases, LAC 33:V.1509, 1511, 1513, and 3322 do apply to the facility subject to the traditional RCRA permit.) Instead of the requirements of LAC 33:V.1509, 1511, and 1513, owners or operators of remediation waste management sites must:

1. obtain an EPA identification number by applying to the administrative authority using the department's Form HW - 1;

2. obtain a detailed chemical and physical analysis of a representative sample of the hazardous remediation wastes to be managed at the site. At a minimum, the analysis must contain all of the information which must be known to treat, store, or dispose of the waste according to LAC 33:V.Chapters 9-11, 15-29, and 31-37, and must be kept accurate and up to date;

3. prevent people who are unaware of the danger from entering, and minimize the possibility for unauthorized people or livestock to enter onto the active portion of the remediation waste management site, unless the owner or operator can demonstrate to the administrative authority that:

- a. physical contact with the waste, structures, or equipment within the active portion of the remediation waste management site will not injure people or livestock who may enter the active portion of the remediation waste management site; and

- b. disturbance of the waste or equipment by people or livestock who enter onto the active portion of the remediation waste management site will not cause a violation of the requirements of this Section;

4. inspect the remediation waste management site for malfunctions, deterioration, operator errors, and discharges that may be causing, or may lead to, a release of hazardous waste constituents to the environment, or a threat to human health. The owner or operator must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment, and must remedy the problem before it leads to a human health or environmental hazard. Where a hazard is imminent or has already occurred, the owner/operator must take remedial action immediately;

5. provide personnel with classroom or on-the-job training on how to perform their duties in a way that ensures the remediation waste management site complies with the requirements of LAC 33:V.Chapters 9-11, 15-29, and 31-37, and on how to respond effectively to emergencies;

6. take precautions to prevent accidental ignition or reaction of ignitable or reactive waste, and prevent threats to human health and the environment from ignitable, reactive, and incompatible waste;

7. for remediation waste management sites subject to regulation under LAC 33:V.Chapters 19, 21, 23, 25, 27, 29, 31, and 32, the owner/operator must design, construct, operate, and maintain a unit within a 100-year floodplain to prevent washout of any hazardous waste by a 100-year flood, unless the owner/operator can meet the demonstration of LAC 33:V.1503.B;

8. not place any non-containerized or bulk liquid hazardous waste in any salt dome formation, salt bed formation, underground mine, or cave;

9. develop and maintain a construction quality assurance program for all surface impoundments, waste piles, and landfill units that are required to comply with LAC 33:V.2303.C and D, 2503.L and M, and 2903.J and K at the remediation waste management site, according to the requirements of LAC 33:V.1504;

10. develop and maintain procedures to prevent accidents and a contingency and emergency plan to control accidents that occur. These procedures must address proper design, construction, maintenance, and operation of remediation waste management units at the site. The goal of the plan must be to minimize the possibility of, and the hazards from, a fire, explosion, or any unplanned sudden or nonsudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water that could threaten human health or the environment. The plan must explain specifically how to treat, store, and dispose of the hazardous remediation waste in question, and must be implemented immediately whenever a fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment occurs;

11. designate at least one employee, either on the facility premises or on call (that is, available to respond to an emergency by reaching the facility quickly), to coordinate all emergency response measures. This emergency coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristics of waste handled, the location of all records within the facility, and the facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan;

12. develop, maintain, and implement a plan to meet the requirements in Subsection H.2-6 and 9-10 of this Section; and

13. maintain records documenting compliance with Subsection H.1 - 12 of this Section.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 18:1256 (November 1992), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 23:565 (May 1997), LR 23:568 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1106 (June 1998), LR 24:1694 (September 1998), LR 24:1759 (September 1998), LR 25:437 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1799 (October 1999), LR 26:277 (February 2000).

§1529. Operating Record and Reporting Requirements

[See Prior Text in A - B.19]

20. Any records required under LAC 33:V.1501.H.13.

[See Prior Text in C - E.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 15:378 (May 1989), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:832 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1695 (September 1998), LR 25:437 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1799 (October 1999), LR 26:278 (February 2000).

§1533. Relationship to Interim Status Standards

A facility owner or operator who has fully complied with the requirements for interim status, as defined in section 3005(e) of RCRA and regulations under LAC 33:V.4301, must comply with the regulations specified in LAC 33:V.Chapter 43 in lieu of the regulations in this Chapter, until final administrative disposition of his permit application is made, except as provided under LAC 33:V.Chapter 26.

[Comment: As stated in section 3005(a) of RCRA, after the effective date of regulations under that section, i.e., LAC 33:V.Chapters 3, 5, and 7, the treatment, storage, or disposal of hazardous waste is prohibited except in accordance with a permit. Section 3005(e) of RCRA provides for the continued operation of an existing facility which meets certain conditions until final administrative disposition of the owner's or operator's permit application is made.]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:278 (February 2000).

§1535. Imminent Hazard Action

Notwithstanding any other provisions of these regulations, enforcement actions may be brought in accordance with R.S. 30:2050.8.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:278 (February 2000).

Chapter 17. Air Emission Standards

§1703. Definitions

As used in this Chapter, all terms not defined herein shall have the meanings given them in LAC 33:V.109.

[See Prior Text]

Equipment each valve, pump, compressor, pressure relief device, sampling connection system, open-ended valve or line, flange, or other connector and any control devices or systems required by this Chapter.

[See Prior Text]

Open-Ended Valve or Line any valve, except pressure relief valves, having one side of the valve seat in contact with hazardous waste and one side open to the atmosphere, either directly or through open piping.

[See Prior Text]

Sampling Connection System an assembly of equipment within a process or waste management unit used during periods of representative operation to take samples of the process or waste fluid. Equipment used to take non-routine grab samples is not considered a sampling connection system.

* * *

[See Prior Text]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1696 (September 1998), LR 25:437 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:278 (February 2000).

Subchapter C. Air Emission Standards for Tanks, Surface Impoundments, and Containers

§1747. Applicability

* * *

[See Prior Text in A - B.4]

5. a waste management unit that is used solely for on-site treatment or storage of hazardous waste that is placed in the unit as a result of implementing remedial activities required under the corrective action authorities of RCRA sections 3004(u), 3004(v), or 3008(h), CERCLA authorities, or similar state authorities;

* * *

[See Prior Text in B.6 - D.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1701 (September 1998), LR 25:440 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:279 (February 2000).

§1753. Waste Determination Procedures

* * *

[See Prior Text in A - A.1]

a. An initial determination of the average VO concentration of the waste stream shall be made before the first time any portion of the material in the hazardous waste stream is placed in a waste management unit exempted under the provisions of LAC 33:V.1751.C.1 from using air emission controls, and thereafter, an initial determination of the average VO concentration of the waste stream shall be made for each averaging period that a hazardous waste is managed in the unit.

b. Perform a new waste determination whenever changes to the source generating the waste stream are reasonably likely to cause the average VO concentration of the hazardous waste to increase to a level that is equal to or greater than the applicable VO concentration limits specified in LAC 33:V.1751.

* * *

[See Prior Text in A.2 - B.1]

a. An initial determination of the average VO concentration of the waste stream shall be made before the first time any portion of the material in the treated waste stream is placed in the exempt waste management unit, and thereafter, the information used for the waste determination

shall be updated at least once every 12 months following the date of the initial waste determination.

b. Perform a new waste determination whenever changes to the process generating or treating the waste stream are reasonably likely to cause the average VO concentration of the hazardous waste to increase to a level such that the applicable treatment conditions specified in LAC 33:V.1751.C.2 are not achieved.

* * *

[See Prior Text in B.2 - D]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1704 (September 1998), LR 25:440 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:279 (February 2000).

§1755. Standards: Tanks

* * *

[See Prior Text in A - H.2]

3. whenever a hazardous waste is in the tank, the tank shall be operated as a closed system that does not vent to the atmosphere except under either of the following conditions as specified in Subsection H.3.a and b of this Section:

a. at those times when opening of a safety device, as defined in LAC 33:V.1703, is required to avoid an unsafe condition; or

b. at those times when purging of inerts from the tank is required and the purge stream is routed to a closed-vent system and control device designed and operated in accordance with the requirements of LAC 33:V.1761.

* * *

[See Prior Text in I - L.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1704 (September 1998), LR 25:440 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:279 (February 2000).

§1759. Standards: Containers

* * *

[See Prior Text in A - E.5]

6. Transfer of hazardous waste in or out of a container using container level 3 controls shall be conducted in such a manner as to minimize exposure of the hazardous waste to the atmosphere, to the extent practical, considering the physical properties of the hazardous waste and good engineering and safety practices for handling flammable, ignitable, explosive, reactive, or other hazardous materials. Examples of container loading procedures that the department considers to meet the requirements of this Paragraph include using any one of the following: a submerged-fill pipe or other submerged-fill method to load liquids into the container; a vapor-balancing system or a vapor-recovery system to collect and control the vapors displaced from the container during filling operations; or a fitted opening in the top of a container through which the hazardous waste is filled and subsequently purging the transfer line before removing it from the container opening.

* * *

[See Prior Text in F - H.3]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1712 (September 1998), LR 25:441 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:279 (February 2000).

Chapter 22. Prohibitions on Land Disposal
Subchapter A. Land Disposal Restrictions

§2203. Definitions Applicable to this Chapter

A. When used in this Chapter the following terms have the meanings given below:

* * *

[See Prior Text]

Hazardous Debris debris that contains a hazardous waste listed in LAC 33:V.4903 or that exhibits a characteristic of hazardous waste identified in LAC 33:V.4901. Any deliberate mixing of prohibited hazardous waste with debris that changes its treatment classification (i.e., from waste to hazardous debris) is not allowed under the dilution prohibition in LAC 33:V.2207.

* * *

[See Prior Text]

Land Disposal placement in or on the land, except in a corrective action management unit or staging pile, and includes, but is not limited to, placement in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt-dome formation, salt-bed formation, underground mine or cave, or placement in a concrete vault or bunker intended for disposal purposes.

* * *

[See Prior Text]

Soil unconsolidated earth material composing the superficial geologic strata (material overlying bedrock), consisting of clay, silt, sand, or gravel size particles as classified by the U.S. Soil Conservation Service, or a mixture of such materials with liquids, sludges, or solids, that is inseparable by simple mechanical removal processes and is made up primarily of soil by volume based on visual inspection. Any deliberate mixing of prohibited hazardous waste with soil that changes its treatment classification (i.e., from waste to contaminated soil) is not allowed under the dilution prohibition in LAC 33:V.2207.

* * *

[See Prior Text]

B. All other terms are used as defined in Chapter 1 of these regulations.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:221 (March 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:667 (April 1998), LR 25:442 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:280 (February 2000).

§2205. Storage of Prohibited Wastes

* * *

[See Prior Text in A - G]

H. The prohibition and requirements in this Section do not apply to hazardous remediation wastes stored in a staging pile approved in accordance with to LAC 33:V.2605.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:220 (March 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1724 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1799 (October 1999), LR 26:280 (February 2000).

§2221. Schedule of Wastes Identified or Listed After November 8, 1984

* * *

[See Prior Text in A - F.2]

3. On September 21, 1998, the wastes specified in LAC 33:V.4901.C as EPA Hazardous Waste Number K088 are prohibited from land disposal. In addition, soil and debris contaminated with these wastes are prohibited from land disposal.

* * *

[See Prior Text in F.4 - 7]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:667 (April 1998), LR 24:1725 (September 1998), LR 25:443 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:280 (February 2000).

§2223. Applicability of Treatment Standards

* * *

[See Prior Text in A - H]

I. Zinc micronutrient fertilizers that are produced for the general public's use and that are produced from or contain recycled characteristic hazardous wastes (D004-D011) are subject to the applicable treatment standards in LAC 33:V.Chapter 22.Table 2.

* * *

[See Prior in Text J]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), LR 22:819 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:668 (April 1998), LR 24:1726 (September 1998), LR 25:443 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:280 (February 2000).

§2236. Alternative Land Disposal Restriction (LDR) Treatment Standards for Contaminated Soil

[See Prior Text in A - C.3]

a. for soil that also contains only analyzable and nonanalyzable organic constituents, treatment of the analyzable organic constituents to the levels specified in Subsection C.1 and 2 of this Section; or

b. for soil that contains only nonanalyzable constituents, treatment by the method(s) specified in LAC 33:V.2227 for the waste contained in the soil.

[See Prior Text in D - E.2.b]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, LR 25:446 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:281 (February 2000).

§2245. Generators' Waste Analysis, Recordkeeping, and Notice Requirements

[See Prior Text in A - D]

contaminants are being treated to comply with LAC 33:V.2230.				
For contaminated soil subject to LDRs as provided in LAC 33:V.2236.A, the constituents subject to treatment as described in LAC 33:V.2236.D, and the following statement: This contaminated soil [does/does not] contain listed hazardous waste and [does/does not] exhibit a characteristic of hazardous waste and [is subject to/complies with] the soil treatment standards as provided by LAC 33:V.2236.C or the universal treatment standards.	X	X		
A certification is needed (see applicable section for exact wording).		X		X

[See Prior Text in E - K]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:267 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), LR 22:820 (September 1996), LR 22:1130 (November 1996), LR 23:565 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:669 (April 1998), LR 24:1728 (September 1998), LR 25:447 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:281 (February 2000).

§2246. Special Rules Regarding Wastes That Exhibit a Characteristic

[See Prior Text in A - D.1.b]

2. The certification must be signed by an authorized representative and must state the language found in LAC 33:V.2247.C.

3. If treatment removes the characteristic but does not meet standards applicable to underlying hazardous constituents, then the certification found in LAC 33:V.2247.C.4 applies.

[See Prior Text in E - F.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:1057 (December 1990), amended LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:669 (April 1998), LR 24:1730 (September 1998), LR 25:449 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:281 (February 2000).

Required Information	LAC 33:V. 2245.B	LAC 33:V. 2245.C	LAC 33:V. 2245.D	LAC 33:V. 2245.I
EPA Hazardous Waste Numbers and manifest numbers of first shipment.	X	X	X	X
Statement: This waste is not prohibited from land disposal.			X	
The waste is subject to the LDRs. The constituents of concern for F001-F005, and F039, and underlying hazardous constituents in characteristic wastes, unless the waste will be treated and monitored, for all constituents. If all constituents will be treated and monitored, there is no need to put them all on the LDR notice.	X	X		
The notice must include the applicable wastewater/nonwastewater category (see LAC 33:V.2203.A) and subdivisions made within a waste code based on waste-specific criteria (such as D003 reactive cyanide).	X	X		
Waste analysis data (when available).	X	X	X	
Date the waste is subject to the prohibition.			X	
For hazardous debris, when treating with the alternative treatment technologies provided by LAC 33:V.2230: the contaminants subject to treatment, as described in LAC 33:V.2230; and an indication that these			X	

§2247. Owners or Operators of Treatment or Disposal Facilities: Testing, Waste Minimization, Recordkeeping, and Notice Requirements

[See Prior Text in A - C.3]

4. For characteristic wastes that are subject to the treatment standards in LAC 33:V.2223 (other than those expressed as a required method of treatment), or LAC 33:V.2236 that contain underlying hazardous constituents as defined in LAC 33:V.2203; if these wastes are treated on-site to remove the hazardous characteristic, and are then sent off-site for treatment of underlying hazardous constituents, the certification must state the following:

"I certify under penalty of law that the waste has been treated in accordance with the requirements of LAC 33:V.2223 or 2236 to remove the hazardous characteristic. This decharacterized waste contains underlying hazardous constituents that require further treatment to meet treatment

standards. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

[See Prior Text in C.5 - H]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:267 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), LR 22:820 (September 1996), LR 23:566 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:670 (April 1998), LR 24:1730 (September 1998), LR 25:449 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:282 (February 2000).

Table 2 – TREATMENT STANDARDS FOR HAZARDOUS WASTES

Waste Code	Waste Description and Treatment/Regulatory Subcategory ¹	Regulated Hazardous Constituent		Wastewaters	Nonwastewaters
		Common Name	CAS ² Number	Concentration in mg/l ³ ; or Technology Code ⁴	Concentration in mg/kg ⁵ unless noted as "mg/l TCLP" ⁶ or Technology Code ⁴
*** [See Prior Text in D001 – K087]					
K088	Spent potliners from primary aluminum reduction.	Acenaphthalene	83-32-9	0.059	3.4
		Anthracene	120-12-7	0.059	3.4
		Benzo(a)anthracene	56-55-3	0.059	3.4
		Benzo(a)pyrene	50-32-8	0.061	3.4
		Benzo(b)fluoranthene	205-99-2	0.11	6.8
		Benzo(k)fluoranthene	207-08-9	0.11	6.8
		Benzo(g,h,i)perylene	191-24-2	0.0055	1.8
		Chrysene	218-01-9	0.059	3.4
		Dibenz(a,h)anthracene	53-70-3	0.055	8.2
		Fluoranthene	206-44-0	0.068	3.4
		Indeno (1,2,3-c,d)pyrene	193-39-5	0.0055	3.4
		Phenanthrene	85-01-8	0.059	5.6
		Pyrene	129-00-0	0.067	8.2
		Antimony	7440-36-0	1.9	1.15 mg/l TCLP
		Arsenic	7440-38-2	1.4	26.1 mg/kg
		Barium	7440-39-3	1.2	21 mg/l TCLP
		Beryllium	7440-41-7	0.82	1.22 mg/l TCLP
		Cadmium	7440-43-9	0.69	0.11 mg/l TCLP
		Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
		Lead	7439-92-1	0.69	0.75 mg/l TCLP
		Mercury	7439-97-6	0.15	0.025 mg/l TCLP
		Nickel	7440-02-0	3.98	11 mg/l TCLP
Selenium	7782-49-2	0.82	5.7 mg/l TCLP		
Silver	7440-22-4	0.43	0.14 mg/l TCLP		
Cyanide (Total) ⁷	57-12-5	1.2	590		
Cyanide (Amenable) ⁷	57-12-5	0.86	30		
*** [See Prior Text in K093 – K151]					
K156	Organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes. ¹⁰	Acetonitrile	75-05-8	5.6	1.8
		Acetophenone	96-86-2	0.010	9.7
		Aniline	62-53-3	0.81	14
		Benomyl	17804-35-2	0.056	1.4

Table 2 – TREATMENT STANDARDS FOR HAZARDOUS WASTES

Waste Code	Waste Description and Treatment/Regulatory Subcategory ¹	Regulated Hazardous Constituent		Wastewaters	Nonwastewaters
		Common Name	CAS ² Number	Concentration in mg/l ³ ; or Technology Code ⁴	Concentration in mg/kg ⁵ unless noted as "mg/l TCLP" or Technology Code ⁴
		Benzene	71-43-2	0.14	10
		Carbaryl	63-25-2	0.006	0.14
		Carbenzadim	10605-21-7	0.056	1.4
		Carbofuran	1563-66-2	0.006	0.14
		Carbosulfan	55285-14-8	0.028	1.4
		Chlorobenzene	108-90-7	0.057	6.0
		Chloroform	67-66-3	0.046	6.0
		o-Dichlorobenzene	95-50-1	0.088	6.0
		Methomyl	16752-77-5	0.028	0.14
		Methylene chloride	75-09-2	0.089	30
		Methyl ethyl ketone	78-93-3	0.28	36
		Naphthalene	91-20-3	0.059	5.6
		Phenol	108-95-2	0.039	6.2
		Pyridine	110-86-1	0.014	16
Toluene	108-88-3	0.080	10		
Triethylamine	121-44-8	0.081	1.5		
*** [See Prior Text in K157 – K158]					
K159	Organics from the treatment of thiocarbamate wastes. ¹⁰	Benzene	71-43-2	0.14	10
		Butylate	2008-41-5	0.042	1.4
		EPTC (Eptam)	759-94-4	0.042	1.4
		Molinate	2212-67-1	0.042	1.4
		Pebulate	1114-71-2	0.042	1.4
Vernolate	1929-77-7	0.042	1.4		
*** [See Prior Text in K161 – U395]					
U404	Triethylamine	Triethylamine	121-44-8	0.081	1.5
U408	2,4,6-Tribromophenol	2,4,6-Tribromophenol	118-79-6	0.035	7.4
*** [See Prior Text in U409 – U411]					

[See Prior Text in Notes 1-6]

⁷ Both Cyanides (Total) and Cyanides (Amenable) for nonwastewaters are to be analyzed using Method 9010 or 9012, found in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA Publication SW-846, as incorporated by reference in LAC 33:V.110, with a sample size of 10 grams and a distillation time of one hour and 15 minutes.

[See Prior Text in Notes 8 - 9]

¹⁰ The treatment standards for this waste may be satisfied by either meeting the constituent concentrations in this table or by treating the waste by the specified technologies:

combustion, as defined by the technology code CMBST at LAC 33:V.Chapter 22.Table 3, for nonwastewaters; and biodegradation, as defined by the technology code BIODG, carbon adsorption, as defined by the technology code CARBN, chemical oxidation, as defined by the technology code CHOXD, or combustion, as defined as technology code CMBST at LAC 33:V.Chapter 22,Table 3, for wastewaters.

¹¹ For these wastes, the definition of CMBST is limited to: (1) combustion units operating under LAC 33:V.Chapter 30, (2) combustion units permitted under LAC 33:V.Chapter 31, or (3) combustion units operating under LAC 33:V.Chapter 43.Subchapter N, which have obtained a determination of equivalent treatment under LAC 33.V.2227.B.

NOTE: NA means not applicable.

Table 7. Universal Treatment Standards			
Regulated Constituent-Common Name	CAS ¹ Number	Wastewater Standard Concentration in mg/l ²	Nonwastewater Standard Concentration in mg/kg ³ unless noted as "mg/l TCLP"
Organic Constituents			

Table 7. Universal Treatment Standards			
Regulated Constituent-Common Name	CAS¹ Number	Wastewater Standard Concentration in mg/l²	Nonwastewater Standard Concentration in mg/kg³ unless noted as "mg/l TCLP"

[See Prior Text in Acenaphthylene - Acrylonitrile]			
Aldicarb sulfone ⁶	1646-88-4	0.056	0.28

[See Prior Text in Aldrin – gamma BHC]			
Barban ⁶	101-27-9	0.056	1.4
Bendiocarb ⁶	22781-23-3	0.056	1.4
Benomyl ⁶	17804-35-2	0.056	1.4

[See Prior Text in Benzene – nButylalcohol]			
Butylate ⁶	2008-41-5	0.042	1.4

[See Prior Text in Butylbenzylphthalate – 2-sec-Butyl-4,6-dinitrophenol (Dinoseb)]			
Carbaryl ⁶	63-25-2	0.006	0.14
Carbenzadim ⁶	10605-21-7	0.056	1.4
Carbofuran ⁶	1563-66-2	0.006	0.14
Carbofuran phenol ⁶	1563-38-8	0.056	1.4

[See Prior Text in Carbon disulfide – Carbon Tetrachloride]			
Carbosulfan ⁶	55285-14-8	0.028	1.4

[See Prior Text in Chlordane (alpha and gamma isomers) – p-Cresol]			
m-Cumenyl methylcarbamate ⁶	64-00-6	0.056	1.4

[See Prior Text in Cyclohexanone – Disulfoton]			
Dithiocarbamates (total) ⁶	137-30-4	0.028	28
EPTC ⁶	759-94-4	0.042	1.4

[See Prior Text in Endosulfan I - Fluorene]			
Formetanate hydrochloride ⁶	23422-53-9	0.056	1.4

[See Prior Text in Heptachlor - Methapyrilene]			
Methiocarb ⁶	2032-65-7	0.056	1.4
Methomyl ⁶	16752-77-5	0.028	0.14

[See Prior Text in Methoxychlor – Methylparathion]			
Metolcarb ⁶	1129-41-5	0.056	1.4
Mexacarbate ⁶	315-18-4	0.056	1.4
Molinate ⁶	2212-67-1	0.042	1.4

[See Prior Text in Napthalene – N-Nitrosopyrrolidine]			
Oxamyl ⁶	23135-22-0	0.056	0.28

[See Prior Text in Parathion – total PCBs (sum of all PCB isomers, or all Aroclors)]			
Pebulate ⁶	1114-71-2	0.042	1.4

[See Prior Text in Pentochlorobenzene – Phthalicanhydride]			
Physostigmine ⁶	57-47-6	0.056	1.4
Physostigmine salicylate ⁶	57-64-7	0.056	1.4
Promecarb ⁶	2631-37-0	0.056	1.4

Table 7. Universal Treatment Standards			
Regulated Constituent-Common Name	CAS ¹ Number	Wastewater Standard Concentration in mg/l ²	Nonwastewater Standard Concentration in mg/kg ³ unless noted as "mg/l TCLP"
* * *			
[See Prior Text in Pronamide]			
Propham ⁶	112-42-9	0.056	1.4
Propoxur ⁶	114-26-1	0.056	1.4
Prosulfocarb ⁶	52888-80-9	0.042	1.4
* * *			
[See Prior Text in Pyrene – 1,1,2- Trichloro-1,2,2-trifluoroethane]			
Triethylamine ⁶	101-44-8	0.081	1.5
* * *			
[See Prior Text in tris-(2,3-Dibromopropyl) phosphate]			
Vernolate ⁶	1929-77-7	0.042	1.4
* * *			
[See Prior Text in Vinylchloride - Zinc]			

* * *

[See Prior Text in Notes 1-5]

⁶ Between August 26, 1998 and March 4, 1999, these constituents are not *underlying hazardous constituents* as defined in LAC 33:V.2203.

* * *

[See Prior Text in Note 7]

Note: NA means not applicable

Chapter 26. Corrective Action Management Units and Temporary Units

§2601. Corrective Action Management Units (CAMU)

A. To implement remedies under LAC 33:V.3322 or RCRA section 3008(h), or to implement remedies at a permitted facility that is not subject to LAC 33:V.3322, the administrative authority may designate an area at a facility as a corrective action management unit, as defined in LAC 33:V.109, under the requirements of this Section. A CAMU must be located within the contiguous property under the control of the owner/operator where the wastes to be managed in the CAMU originated. One or more CAMUs may be designated at a facility.

* * *

[See Prior Text in A.1 - H]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:285 (February 2000).

§2603. Temporary Units (TU)

A. For temporary tanks and container storage areas used to treat or store hazardous remediation wastes during remedial activities required under LAC 33:V.3322 or RCRA section 3008(h), or at a permitted facility that is not subject to LAC 33:V.3322, the administrative authority may designate a unit at the facility as a temporary unit. A temporary unit must be located within the contiguous property under the control of the owner/operator where the wastes to be managed in the temporary unit originated. For temporary units, the administrative authority may replace the

design, operating, or closure standard applicable to these units under LAC 33:V.Chapters 9 - 11, 15 - 21, 23 - 29, 31 - 37, and 43 with alternative requirements which protect human health and the environment.

* * *

[See Prior Text in B - G]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended LR 21:944 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:285 (February 2000).

§2605. Staging Piles

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

A. What Is a Staging Pile? A staging pile is an accumulation of solid, non-flowing remediation waste (as defined in LAC 33:V.109) that is not a containment building and is used only during remedial operations for temporary storage at a facility. A staging pile must be located within the contiguous property under the control of the owner/operator where the wastes to be managed in the staging pile originated. Staging piles must be designated by the administrative authority according to the requirements in this Section.

B. When May I Use a Staging Pile? You may use a staging pile to store hazardous remediation waste (or remediation waste otherwise subject to land disposal restrictions) only if you follow the standards and design criteria the administrative authority has designated for that staging pile. The administrative authority must designate the staging pile in a permit or, at an interim status facility, in a closure plan or order (consistent with LAC 33:V.4303.A.5 and B.5). The administrative authority must establish conditions in the permit, closure plan, or order that comply with Subsections D - K of this Section.

C. What Information Must I Provide to Get a Staging Pile Designated? When seeking a staging pile designation, you must provide:

1. sufficient and accurate information to enable the administrative authority to impose standards and design criteria for your staging pile according to Subsections D - K of this Section;

2. certification by an independent, qualified, registered professional engineer for technical data, such as design drawings and specifications, and engineering studies, unless the administrative authority determines, based on information that you provide, that this certification is not necessary to ensure that a staging pile will protect human health and the environment; and

3. any additional information the administrative authority determines is necessary to protect human health and the environment.

D. What Performance Criteria Must a Staging Pile Satisfy? The administrative authority must establish the standards and design criteria for the staging pile in the permit, closure plan, or order.

1. The standards and design criteria must comply with the following:

a. the staging pile must facilitate a reliable, effective, and protective remedy;

b. the staging pile must be designed so as to prevent or minimize releases of hazardous wastes and hazardous constituents into the environment, and minimize or adequately control cross-media transfer, as necessary to protect human health and the environment (for example, through the use of liners, covers, runoff/run-on controls, as appropriate); and

c. the staging pile must not operate for more than two years, except when the administrative authority grants an operating term extension under Subsection I of this Section (entitled "May I Receive an Operating Extension for a Staging Pile?"). You must measure the two-year limit, or other operating term specified by the administrative authority in the permit, closure plan, or order, from the first time you place remediation waste into a staging pile. You must maintain a record of the date when you first placed remediation waste into the staging pile for the life of the permit, closure plan, or order, or for three years, whichever is longer.

2. In setting the standards and design criteria, the administrative authority must consider the following factors:

a. length of time the pile will be in operation;

b. volumes of wastes you intend to store in the pile;

c. physical and chemical characteristics of the wastes to be stored in the unit;

d. potential for releases from the unit;

e. hydrogeological and other relevant environmental conditions at the facility that may influence the migration of any potential releases; and

f. potential for human and environmental exposure to potential releases from the unit;

E. May a Staging Pile Receive Ignitable or Reactive Remediation Waste? You must not place ignitable or reactive remediation waste in a staging pile unless:

1. you have treated, rendered, or mixed the remediation waste before you placed it in the staging pile so that:

a. the remediation waste no longer meets the definition of ignitable or reactive under LAC 33:V.4903.B or D; and

b. you have complied with LAC 33:V.1517.B; or

2. you manage the remediation waste to protect it from exposure to any material or condition that may cause it to ignite or react.

F. How Do I Handle Incompatible Remediation Wastes in a Staging Pile? The term *incompatible waste* is defined in LAC 33:V.109. You must comply with the following requirements for incompatible wastes in staging piles:

1. you must not place incompatible remediation wastes in the same staging pile unless you have complied with LAC 33:V.1517.B;

2. if remediation waste in a staging pile is incompatible with any waste or material stored nearby in containers, other piles, open tanks, or land disposal units (for example, surface impoundments), you must separate the incompatible materials, or protect them from one another by using a dike, berm, wall, or other device; and

3. you must not pile remediation waste on the same base where incompatible wastes or materials were previously piled, unless the base has been decontaminated sufficiently to comply with LAC 33:V.1517.B.

G. Are Staging Piles Subject to Land Disposal Restrictions (LDR) and Minimum Technological Requirements (MTR)? No. Placing hazardous remediation wastes into a staging pile does not constitute land disposal of hazardous wastes or create a unit that is subject to the minimum technological requirements of RCRA 3004(o).

H. How Long May I Operate a Staging Pile? The administrative authority may allow a staging pile to operate for up to two years after hazardous remediation waste is first placed into the pile. You must use a staging pile no longer than the length of time designated by the administrative authority in the permit, closure plan, or order (the *operating term*), except as provided in Subsection I of this Section.

I. May I Receive an Operating Extension for a Staging Pile?

1. The administrative authority may grant one operating term extension of up to 180 days beyond the operating term limit contained in the permit, closure plan, or order (see Subsection L of this Section for modification procedures). To justify to the administrative authority the need for an extension, you must provide sufficient and accurate information to enable the administrative authority to determine that continued operation of the staging pile:

a. will not pose a threat to human health and the environment; and

b. is necessary to ensure timely and efficient implementation of remedial actions at the facility.

2. The administrative authority may, as a condition of the extension, specify further standards and design criteria in the permit, closure plan, or order, as necessary, to ensure protection of human health and the environment.

J. What is the Closure Requirement For a Staging Pile Located in a Previously Contaminated Area?

1. Within 180 days after the operating term of the staging pile expires, you must close a staging pile located in a previously contaminated area of the site by removing or decontaminating all:

a. remediation waste;

- b. contaminated containment system components; and
- c. structures and equipment contaminated with waste and leachate.

2. You must also decontaminate contaminated subsoils in a manner and according to a schedule that the administrative authority determines will protect human health and the environment.

3. The administrative authority must include the above requirements in the permit, closure plan, or order in which the staging pile is designated.

K. What is the Closure Requirement for a Staging Pile Located in an Uncontaminated Area?

1. Within 180 days after the operating term of the staging pile expires, you must close a staging pile located in an uncontaminated area of the site according to LAC 33:V.2315.A and 3507; or according to LAC 33:V.4379 and 4475.A.

2. The administrative authority must include the above requirement in the permit, closure plan, or order in which the staging pile is designated.

L. How May My Existing Permit (for example, RAP), Closure Plan, or Order be Modified to Allow Me to Use a Staging Pile?

1. To modify a permit, other than a RAP, to incorporate a staging pile or staging pile operating term extension, either:

a. the administrative authority must approve the modification under the procedures for agency-initiated permit modifications in LAC 33:V.322; or

b. you must request a class 2 modification under LAC 33:V.321.C.

2. To modify a RAP to incorporate a staging pile or staging pile operating term extension, you must comply with the RAP modification requirements under LAC 33:V.640 and 645.

3. To modify a closure plan to incorporate a staging pile or staging pile operating term extension, you must follow the applicable requirements under LAC 33:V.3511.C or 4381.C.

4. To modify an order to incorporate a staging pile or staging pile operating term extension, you must follow the terms of the order and the applicable provisions of LAC 33:V.4303.A.5 or B.5.

M. Is Information About the Staging Pile Available to the Public? The administrative authority must document the rationale for designating a staging pile or staging pile operating term extension and make this documentation available to the public.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:285 (February 2000).

Chapter 33. Groundwater Protection
§3322. Corrective Action

* * *

[See Prior Text in A - D]

E. This Section does not apply to remediation waste management sites unless they are part of a facility subject to a permit for treating, storing, or disposing of hazardous wastes that are not remediation wastes.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:614 (July 1990), LR 20:1000 (September 1994), LR 21:266 (March 1995), amended by the Office of the Secretary, LR 24:2247 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:287 (February 2000).

Chapter 38. Universal Wastes
Subchapter A. General

§3813. Definitions

* * *

[See Prior Text]

Small Quantity Handler of Universal Waste a universal waste handler (as defined in this Section) who does not accumulate 5,000 kilograms or more total of universal waste (batteries, pesticides, thermostats, lamps, or antifreeze, calculated collectively) at any time.

* * *

[See Prior Text]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:570 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1760 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:287 (February 2000).

Chapter 41. Recyclable Materials
Subchapter C. Special Requirements for Group III Recyclable Materials

§4145. Spent Lead-Acid Batteries Being Reclaimed

A. Applicability. Are spent lead-acid batteries exempt from hazardous waste management requirements? If you generate, collect, transport, store, or re-generate lead-acid batteries for reclamation purposes, you may be exempt from certain hazardous waste management requirements. Use the following table to determine which requirements apply to you. Alternatively, you may choose to manage your spent lead-acid batteries under the *Universal Waste* rule in LAC 33:V.Chapter 38.

If your batteries	And if you	Then you	And you
1. will be reclaimed through regeneration (such as by electrolyte replacement).		are exempt from LAC 33:V. Subpart 1 except for LAC 33:V. Chapters 1,31.Table 1, and 49, and LAC 33:V.1103, and the notification requirements at section 3010 of RCRA.	are subject to LAC 33:V. Chapters 1, 31. Table 1, and 49 and LAC 33:V.1103.
2. will be reclaimed other than through regeneration.	generate, collect, and/or transport these batteries.	are exempt from LAC 33:V. Subpart 1 except for LAC 33:V.Chapters 1,31.Table 1, and 49, and LAC 33:V.1103, and the notification requirements at section 3010 of RCRA.	are subject to LAC 33:V. Chapter 1, 31. Table 1, and 49 and LAC 33:V.1103 and applicable provisions under LAC 33:V.Chapter 22.
3. will be reclaimed other	store these batteries, but	are exempt from LAC 33:V. Subpart	are subject to LAC 33:V.

than through regeneration.	you aren't the claimer.	1 except for LAC 33:V.Chapters 1,31.Table 1, and 49, and LAC 33:V.1103, and the notification requirements at section 3010 of RCRA.	Chapters 1, 31, Table 1, and 49 and LAC 33:V.1103 and applicable provisions under LAC 33:V.Chapter 22.
4. will be reclaimed other than through regeneration.	store these batteries before you reclaim them.	Must comply with LAC 33:V.4145.B and, as appropriate, other regulatory provisions described in LAC 33:V.4145.B.	are subject to LAC 33:V.Chapters 31, Table 1 and 49 and LAC 33:V.1103 and applicable provisions under LAC 33:V.Chapter 22.
5. will be reclaimed other than through regeneration.	don't store these batteries before you reclaim them.	Are exempt from LAC 33:V. Subpart 1 except for LAC 33:V. Chapters 1, 31.Table 1, and 49 and LAC 33:V.1103, and the notification requirements at section 3010 of RCRA.	are subject to LAC 33:V.Chapters 31, Table 1 and 49 and LAC 33:V.1103 and applicable provisions under LAC 33:V.Chapter 22.

B. Requirements. If I store spent lead-acid batteries before I reclaim them, but not through regeneration, which requirements apply? The requirements of this Subsection apply to you if you store spent lead-acid batteries before you reclaim them, but you don't reclaim them through regeneration. The requirements are slightly different depending on your RCRA permit status.

1. For interim status facilities, you must comply with:
 - a. notification requirements under section 3010 of RCRA;
 - b. all applicable provisions in LAC 33:V.4301-4306;
 - c. all applicable provisions in LAC 33:V.Chapter 43.Subchapter A, except LAC 33:V.4313 (waste analysis);
 - d. all applicable provisions in LAC 33:V.Chapter 43.Subchapters B and C;
 - e. all applicable provisions in LAC 33:V.Chapter 43.Subchapter D, except LAC 33:V.4353 and 4355 (dealing with the use of the manifest and manifest discrepancies);
 - f. all applicable provisions in LAC 33:V.Chapter 43.Subchapters E-K; and
 - g. all applicable provisions in LAC 33:V.Chapters 3, 5, and 7.
2. For permitted facilities, you must comply with:
 - a. notification requirements under section 3010 of RCRA;
 - b. all applicable provisions in LAC 33:V.1501;
 - c. all applicable provisions in LAC 33:V.1503, 1504, 1507, 1509, 1515, and 1517;
 - d. all applicable provisions in LAC 33:V.1511 and 1513;
 - e. all applicable provisions in LAC 33:V.Chapter 9, but not LAC 33:V.905 or 907 (dealing with the use of the manifest and manifest discrepancies);
 - f. all applicable provisions in LAC 33:V.1505, and Chapters 19, 21, 23, 29, 33, 35, and 37; and
 - g. all applicable provisions in LAC 33:V.Chapters 3, 5, and 7.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 13:237 (April 1987), LR 23:579 (May 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:287 (February 2000).

Chapter 43. Interim Status

§4305. Termination of Interim Status

Interim status terminates when:

* * *

[See Prior Text in A - E]

F. One of the following occurs:

1. final administrative disposition of a permit application is made, except an application for a remedial action plan (RAP) under LAC 33:V.Chapter 43.Subchapter H; or

* * *

[See Prior Text in F.2]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:220 (March 1990), LR 16:614 (July 1990), LR 20:1000 (September 1994), LR 20:1109 (October 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:288 (February 2000).

§4306. Imminent Hazard Action

Notwithstanding any other provisions of these regulations, enforcement actions may be brought pursuant to R.S. 30:2050.8.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:288 (February 2000).

Subchapter V. Air Emission Standards for Tanks, Surface Impoundments, and Containers

§4727. Waste Determination Procedures

* * *

[See Prior Text in A - A.1]

a. An initial determination of the average VO concentration of the waste stream shall be made before the first time any portion of the material in the hazardous waste stream is placed in a waste management unit exempted under the provisions of LAC 33:V.4725 from using air emission controls, and thereafter, an initial determination of the average VO concentration of the waste stream shall be made for each averaging period that a hazardous waste is managed in the unit.

b. Perform a new waste determination whenever changes to the source generating the waste stream are reasonably likely to cause the average VO concentration of the hazardous waste to increase to a level that is equal to or greater than the VO concentration limit specified in LAC 33:V.4725.

* * *

[See Prior Text in A.2 - 3.b.i]

ii. A sufficient number of samples, but no less than four samples, shall be collected and analyzed for a hazardous waste determination. All of the samples for a given waste determination shall be collected within a

one-hour period. The average of the four or more sample results constitutes a waste determination for the waste stream. One or more waste determinations may be required to represent the complete range of waste compositions and quantities that occur during the entire averaging period due to normal variations in the operating conditions for the source or process generating the hazardous waste stream. Examples of such normal variations are seasonal variations in waste quantity or fluctuations in ambient temperature.

* * *

[See Prior Text in A.3.b.iii]

iv. Sufficient information, as specified in the *site sampling plan* required under Subsection A.3.b.iii of this Section shall be prepared and recorded to document the waste quantity represented by the samples and, as applicable, the operating conditions for the source or process generating the hazardous waste represented by the samples.

c. Analysis. Each collected sample shall be prepared and analyzed in accordance with one or more of the methods listed in Subsection A.3.c.i-ix of this Section, including appropriate quality assurance and quality control (QA/QC) checks and use of target compounds for calibration. If Method 25D in 40 CFR part 60, appendix A is not used, then one or more methods should be chosen that are appropriate to ensure that the waste determination accounts for and reflects all organic compounds in the waste with Henry's law constant values at least 0.1 mole-fraction-in-the-gas-phase/mole-fraction-in-the-liquid-phase (0.1 Y/X) (which can also be expressed as 1.8×10^{-6} atmospheres/gram-mole/m³) at 25EC. Each of the analytical methods listed in Subsection A.3.c.ii - vii of this Section has an associated list of approved chemical compounds for which the department considers the method appropriate for measurement. If an owner or operator uses Method 624, 625, 1624, or 1625 in 40 CFR part 136, appendix A to analyze one or more compounds that are not on that method's published list, the Alternative Test Procedure contained in 40 CFR 136.4 and 136.5 must be followed. If an owner or operator uses EPA Method 8260 or 8270 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, incorporated by reference in LAC 33:V.110.A, to analyze one or more compounds that are not on that method's published list, the procedures in Subsection A.3.c.viii of this Section must be followed. At the owner's or operator's discretion, the owner or operator may adjust test data measured by a method other than Method 25D to the corresponding average VO concentration value which would have been obtained had the waste samples been analyzed using Method 25D in 40 CFR part 60, appendix A. To adjust these data, the measured concentration of each individual chemical constituent contained in the waste is multiplied by the appropriate constituent-specific adjustment factor (f_{m25D}). If the owner or operator elects to adjust test data, the adjustment must be made to all individual chemical constituents with a Henry's law constant value greater than or equal to 0.1 Y/X at 25° Celsius contained in the waste. Constituent-specific adjustment factors (f_{m25D}) can be obtained by contacting the Waste and Chemical Processes Group, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711:

* * *

[See Prior Text in A.3.c.i - B.1]

a. An initial determination of the average VO concentration of the waste stream shall be made before the first time any portion of the material in the treated waste stream is placed in a waste management unit exempted under the provisions of LAC 33:V.4725 from using air emission controls, and thereafter, update the information used for the waste determination at least once every 12 months following the date of the initial waste determination.

b. Perform a new waste determination whenever changes to the process generating or treating the waste stream are reasonably likely to cause the average VO concentration of the hazardous waste to increase to a level such that the applicable treatment conditions specified in LAC 33:V.4725 are not achieved.

* * *

[See Prior Text in B.2 - B.3.b.i]

ii. A sufficient number of samples, but no less than four samples, shall be collected and analyzed for a hazardous waste determination. All of the samples for a given waste determination shall be collected within a one-hour period. The average of the four or more sample results constitutes a waste determination for the waste stream. One or more waste determinations may be required to represent the complete range of waste compositions and quantities that occur during the entire averaging period due to normal variations in the operating conditions for the source or process generating the hazardous waste stream. Examples of such normal variations are seasonal variations in waste quantity or fluctuations in ambient temperature.

* * *

[See Prior Text in B.3.b.iii]

iv. Sufficient information, as specified in the *site sampling plan* required under Subsection B.3.b.iii of this Section, shall be prepared and recorded to document the waste quantity represented by the samples and, as applicable, the operating conditions for the process treating the hazardous waste represented by the samples.

c. Analysis. Each collected sample shall be prepared and analyzed in accordance with one or more of the methods listed in Subsection B.3.c.i-ix of this Section, including appropriate quality assurance and quality control (QA/QC) checks and use of target compounds for calibration. When the owner or operator is making a waste determination for a treated hazardous waste that is to be compared to an average VO concentration at the point of waste origination or the point of waste entry to the treatment system, to determine if the conditions of LAC 33:V.4723 or 4725 are met, the waste samples shall be prepared and analyzed using the same method or methods as were used in making the initial waste determinations at the point of waste origination or at the point of entry to the treatment system. If Method 25D in 40 CFR part 60, appendix A is not used, then one or more methods should be chosen that are appropriate to ensure that the waste determination accounts for and reflects all organic compounds in the waste with Henry's law constant values at least 0.1 mole-fraction-in-the-gas-phase/mole-fraction-in-the-liquid-phase (0.1 Y/X) [which can also be expressed as 1.8×10^{-6} atmospheres/gram-mole/m³] at 25EC. Each of the analytical methods listed in Subsection B.3.c.ii - vii of this Section has an associated list of approved chemical compounds for which the department considers the method appropriate for

measurement. If an owner or operator uses Method 624, 625, 1624, or 1625 in 40 CFR part 136, appendix A to analyze one or more compounds that are not on that method's published list, the Alternative Test Procedure contained in 40 CFR 136.4 and 136.5 must be followed. If an owner or operator uses Method 8260 or 8270 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, incorporated by reference in LAC 33:V.110.A, to analyze one or more compounds that are not on that method's published list, the procedures in Subsection B.3.c.viii of this Section must be followed. At the owner's or operator's discretion, the owner or operator may adjust test data measured by a method other than Method 25D to the corresponding average VO concentration value which would have been obtained had the waste samples been analyzed using Method 25D in 40 CFR part 60, appendix A. To adjust these data, the measured concentration of each individual chemical constituent contained in the waste is multiplied by the appropriate constituent-specific adjustment factor (f_{m25D}). If the owner or operator elects to adjust test data, the adjustment must be made to all individual chemical constituents with a Henry's law constant value greater than or equal to 0.1 Y/X at 25° Celsius contained in the waste. Constituent-specific adjustment factors (f_{m25D}) can be obtained by contacting the Waste and Chemical Processes Group, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711:

* * *

[See Prior Text B.3.c.i - D.9]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:1747 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:288 (February 2000).

James H. Brent, Ph.D.
Assistant Secretary

0002#054

RULE

Firefighters' Pension and Relief Fund City of New Orleans and Vicinity

Definitions (LAC 58:V.1501)

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans ("Fund"), pursuant to R.S. 11:3363(F), has amended LAC 58:V.1501, in accordance with the Administrative Procedure Act. The amended rule notifies the public of the change in definition of Retired Member to exclude a DROP participant who is not yet eligible to receive a distribution from his DROP account.

Title 58 RETIREMENT

Part V. Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity Chapter 15. Deferred Retirement Option Plan §1501. Definitions

* * *

Retired Member: a former Member receiving retirement benefits from the Fund, but not including a DROP participant who is not yet eligible to receive a distribution from his DROP Account.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363, and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 22:703 (August 1996), LR 26:290 (February 2000).

Richard Hampton
Secretary-Treasurer

0002#067

RULE

Firefighters' Pension and Relief Fund City of New Orleans and Vicinity

Eligibility (LAC 58:V.1503)

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans ("Fund"), pursuant to R.S. 11:3363(F), has amended LAC 58:V.1503, in accordance with the Administrative Procedure Act. The amended rule notifies the public of the board's decision to extend the length of time a member may participate in the DROP from three to five years, as provided by Act No. 1377 of the 1999 Regular Session.

Title 58 RETIREMENT

Part V. Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity Chapter 15. Deferred Retirement Option Plan §1503. Eligibility

A. - A.4. ...

5. By submitting a DROP enrollment application, the member shall automatically elect to participate in the DROP for the full five-year period. Nonetheless, the member may exit the DROP at any time by filing with the board an application to withdraw from the DROP, effective upon the board's approval.

B. A member may participate in the DROP only once, except as otherwise provided in §1505(T).

C. The member's application to enter the DROP shall request retirement on the first day of a calendar month and shall specify a requested effective date no earlier than the first day of the second calendar month following the

calendar month in which the DROP enrollment application is submitted. The service retirement application and the DROP enrollment application shall not be submitted to the board for consideration and approval until such time as all required and requested data, documentation, and information have been submitted to the board in order to complete both the service retirement and the DROP enrollment applications. Such participation shall be limited to a maximum period of five years **B**i.e. 60 calendar months **B**as to each individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363, and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 22:703 (August 1996), amended by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 26:290 (February 2000).

Richard Hampton
Secretary-Treasurer

0002#068

RULE

Firefighters' Pension and Relief Fund City of New Orleans and Vicinity

General Rules for Participation
(LAC 58:V.1701 and 1703)

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans ("Fund"), pursuant to R.S. 11:3363(F), has added chapter LAC 58:V.17, Sections 1701 and 1703 in accordance with the Administrative Procedure Act. This chapter notifies the public that the board will offer an optional form of distribution of a member's retirement benefit as an initial partial lump sum benefit with a reduced monthly annuity payable for life. This rule implements Act No. 1377 of the 1999 Regular Session.

Title 58

RETIREMENT

Part V. Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity

Chapter 17. Partial Lump-Sum Option Payment

§1701. General Rules for Participation

A. If a member has not participated in the DROP, upon application for retirement, he may elect to receive the actuarial equivalent of his retirement benefit as a reduced monthly benefit, payable for life, plus an initial lump-sum benefit. The amount of the initial lump-sum benefit, as determined by the member, shall not exceed an amount equal to the member's normal retirement benefit times sixty.

B. The member's monthly retirement will be actuarially reduced based on the lump-sum amount withdrawn and the member's age at retirement. The partial lump-sum benefit, together with the member's reduced normal retirement benefit, must be actuarially equivalent to the member's normal retirement benefit as set forth in R.S. 11:3384.

C. The cost of living adjustment (COLA) granted by the Board of Trustees to retirees who elect to receive a reduced retirement benefit and a partial lump-sum benefit shall be based only on the reduced retirement benefit and shall not be based on the partial lump-sum benefit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363, and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 26:291 (February 2000).

§1703. Distributions from Partial Lump-Sum Option Payment

A. Distributions from the partial lump-sum option payment (PLOP) elected by the member are not eligible for rollover as is the case with DROP accounts. However, the amount of the PLOP may be left with the Fund and subject to the rules applicable to distribution of DROP accounts.

1. As detailed in those rules applicable to DROP accounts, allowable distributions vary depending upon whether the member retires before, during or after the calendar in which the member reaches age 55.

B. A member who retires before the calendar year in which the member reaches age 55 may receive distribution of his PLOP at retirement and avoid incurrance of the 10 percent early distribution penalty. In the event the PLOP remains on deposit with the Fund, all distribution rules applicable to DROP accounts apply, including the 10 percent early distribution penalty and recapture penalty, if applicable.

C. A member who retires during or after the calendar year in which the member reaches age 55 may receive distribution of his PLOP account in accordance with rules applicable to DROP accounts, will not be subject to the 10 percent early distribution penalty or recapture penalty, but will be subject to those DROP rules requiring mandatory distributions of the account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363, and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 26:291 (February 2000).

Richard Hampton
Secretary-Treasurer

0002#072

RULE

Firefighters' Pension and Relief Fund City of New Orleans and Vicinity

Participation in and Withdrawal from the DROP
(LAC 58:V.1505)

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans ("Fund"), pursuant to R.S. 11:3363(F), has amended LAC 58:V.1505, in accordance with the Administrative Procedure Act. The amended rule notifies the public that members who are currently participating in the DROP may, prior to December 31, 1999, elect to extend or terminate their participation in the DROP. Further, the rule provides that the Fund will assess an administrative fee of up to 2 percent on any member's DROP account that is not distributed to the member after the member's participation in the DROP terminates. The amended rule also provides that such a DROP account will earn interest after the member's DROP participation ends. The amended rule further extends the

period of DROP participation from three to five years, and provides several optional distribution forms for a member's DROP benefit. These rules implement Act No. 1377 of the 1999 Regular Session.

Title 58

RETIREMENT

Part V. Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity

Chapter 15. Deferred Retirement Option Plan

§1505. Participation in and Withdrawal from the DROP

A. - F. ...

G. A member's DROP Account shall not be charged, debited, or assessed any fees, charges or similar expenses of any kind for any purpose, not shall the account be subject to diminution based on valuation or earnings losses of any kind during the member's participation in the DROP. In addition, no such fees, charges, losses, or other similar charges shall be charged, debited, or assessed against the member indirectly, during the member's participation in the DROP.

H. A member's DROP account shall not earn or accrue any interest, gains, or earnings of any kind, nor shall the member accrue such earnings indirectly, during his DROP participation. Upon completion of participation in the DROP, and regardless of whether the member terminates employment with the fire department, the DROP account will earn interest each year based on a five-year rolling average of the composite rate of return of the pension Fund, minus an administrative fee of no more than 2 percent, to be deducted from the member's DROP account each year.

I. ...

J. The duration of participation in the DROP shall not exceed a period of five consecutive years **B** i.e., 60 consecutive calendar months measured from the effective date of commencement of participation in the DROP.

K. A member may terminate his participation in the DROP to be effective as of the last day of any calendar month prior to the end of the maximum five-year period by filing with the Board of Trustees of the Fund a DROP withdrawal application, providing the DROP withdrawal application is submitted to the board no later than the last day of the previous calendar month. Nevertheless, in the event the board determines, based on all facts and circumstances at issue, that justice so requires and equity so warrants, the board shall be fully authorized, entirely in its discretion, to approve termination of a firefighter's participation in the DROP effective upon a date earlier or later than would otherwise apply.

L. If a member participating in the DROP does not terminate his covered employment upon completion of five years of participation in the DROP or upon the effective date of his approved withdrawal prior thereto, payment of the member's service retirement benefit into the member's DROP account shall automatically cease. In the event the member has failed to notify the board of his intent to continue in his covered employment after the effective date of his DROP completion, the board shall notify the member, in writing, at his last known address, that the Fund has ceased monthly payments into his DROP account.

M. If the member should die during his period of participation in the DROP, a lump sum payment of the balance in the member's DROP account shall be paid to his

designated beneficiary, or if none, to his estate upon written application to the Fund office. Any additional survivor and/or death benefits payable to the member's beneficiary or beneficiaries, in accordance with the member's individual retirement election, all applicable statutory provisions, and the board's rules and regulations pertaining to death benefits, shall also be subject to distribution.

N. ...

O. Upon termination of covered employment, distribution of the member's DROP account may be made as a one-time lump sum payment, in a series of periodic or non-periodic payments, or as a partial lump sum payment with periodic distributions of the balance, all as allowed herein. Allowable distributions vary depending upon whether the member retires before, during or after the calendar year in which the member reaches age 55. Direct rollovers are subject to the Fund's current rules and regulations and IRS guidelines.

1. Members Retiring Before the Calendar Year in which the Member Reaches Age 55

a. A member who does not rollover his DROP account may withdraw 100 percent of his account balance at any time after termination of covered employment upon written notice to the Fund Office. For a member who retired before the calendar year in which the member reached age 55, and who is at the time of the distribution under age 59², the distribution of the member's taxable portion of his account balance will be subject to an early distribution penalty of the IRS equal to 10 percent of the taxable distribution.

b. A member may elect to receive his DROP account balance (including both taxable and non-taxable portions), as a series of equal periodic (at least annual) payments over the life (or life expectancy) of the member or the joint lives (or joint life expectancies) of the member and his designated beneficiary. Such periodic distributions over life expectancy are not subject to the 10 percent early distribution penalty; however, the distributions are subject to normal taxation on the taxable portion.

i. Upon the member's attainment of age 59², the equal periodic distributions may be terminated, and the member may elect to receive any form of distribution without incurrence of the 10 percent early distribution penalty until the member reaches age 70², at which time mandatory distributions over the member's and/or beneficiary's life expectancy must commence, as provided in paragraph P herein.

c. A member may elect to receive 100 percent of the non-taxable portion of his DROP account in one lump sum payment, and the balance of the DROP account as a series of equal periodic payments (at least annual) over the life (or life expectancy) of the member or the joint lives (or joint life expectancies) of the member and his designated beneficiary. No 10 percent penalty is assessed on this type of distribution.

i. Upon the member's attainment of age 59², the equal periodic distributions may be terminated, and the member may elect to receive any form of distribution without incurrence of the 10 percent early distribution penalty until the member reaches age 70², at which time mandatory distributions over the member's and/or

beneficiary's life expectancy must commence, as provided in paragraph P herein.

d. A member may elect to receive his distribution in a manner other than a series of equal periodic payments based upon his and/or his beneficiary's life expectancy; however, if the member is under age 59² at the time of such a non-periodic distribution of a taxable amount of the DROP account, any such distribution will be subject to a 10 percent early distribution penalty, as well as a recapture penalty. The recapture penalty provides for a 10 percent additional tax on all taxable distributions received by the member since retirement, inclusive of monthly retirement benefits and any prior distributions from the member's DROP account.

i. Non-periodic distributions may be made no more than four times in a calendar year, and then only on the first day of each fiscal quarter (March 1, June 1, September 1 and December 1). All non-periodic distributions must be a minimum of \$1,000. For any distribution, the member must provide the Fund Office with written notice no later than thirty (30) days prior to the first business day of the fiscal quarter.

2. Members Retiring During or After the Calendar Year in Which the Member Reaches Age 55

a. Any member terminating covered employment during or after the calendar year in which the member reaches age 55 may elect any of the options available under Paragraph O(1) above without being subject to the 10 percent early distribution penalty or recapture penalty. All other rules regarding non-periodic payments apply. In order for the Fund to comply with federal law regarding the mandatory commencement of retirement benefits, distributions from a member's DROP account must commence no later than April 1 of the calendar year following the calendar year in which the member reaches age 70². These minimum distributions are accomplished by a monthly DROP distribution which is calculated to distribute the entire balance of a member's DROP account over a period not extending beyond the life expectancy of the member or the joint life expectancy of the member and his designated beneficiary. Distributions above those which are mandatory are allowable, subject to the Fund's current rules.

i. Members terminating covered employment during or after the calendar year in which the member reaches age 55, who are now over age 70², are eligible to receive distribution of all or any portion of the DROP account exceeding the mandatory distributions, subject to Fund's current rules.

P. Members and their beneficiaries may defer receipt of a distribution from the DROP account indefinitely, subject to the Internal Revenue Service's mandatory distribution rules.

Q. Upon termination of covered employment, the member may file an application with the board requesting distribution of his DROP Account on the first day of any calendar month following the calendar month of termination. Provided, however, that the requested distribution date shall be no earlier than the second calendar month following the calendar month of termination.

R. - S. ...

T. The member shall not be permitted to change, revoke or rescind the retirement benefit distribution option selected and/or the beneficiary or beneficiaries he designated upon entering into the DROP regarding his service retirement benefit nor shall any such change be permitted at the time the DROP account is distributed. However, a member who is participating or has participated in the three-year DROP and has continued in active employment with the fire department, may elect, on or before December 31, 1999, either to extend his participation in the DROP for the remainder of the five-year period beginning on the date he entered the DROP, or to revoke his participation in the DROP. In the event the member elects to extend his participation in the DROP, any period of time he has been out of the three-year DROP will be included in calculating the five-year DROP period. In the event the member elects to revoke his three-year DROP participation, the member's entire DROP account, including any interest earned, will be returned to the Fund, and the member will be placed in the same position as if he had never elected to participate in the DROP. The member will be considered to have been an active employee in the system, and all creditable service and compensation earned during the period of the revoked DROP participation will be credited toward the member's new benefit calculation. If the member chose any option other than the single life annuity when he originally entered the DROP, his spouse must consent to the revocation and any subsequent election, other than a joint and survivor annuity option. However, no action by the member nor decision by the Board may circumvent a previously approved QDRO.

U. If the member does not terminate his covered employment upon completion of the maximum five-year participation period or upon such earlier date as the member has specified for withdrawal:

1. monthly service retirement benefit payments into the DROP account shall cease; and

2. the member shall resume active membership in the system; and

3. the member shall commence accrual of additional creditable service under the system, and

4. the member's DROP account will begin to earn interest each year based on a five-year rolling average of the composite rate of return of the pension Fund, minus an administrative fee of no more than 2 percent, which will be deducted from the member's DROP account each year. The interest rate will be determined by the Fund actuary at the end of each calendar year, but will be effective beginning the subsequent fiscal year (July 1).

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363 and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 22:703 (August 1996), amended LR 23:1145 (September 1997), amended LR 26:292 (February 2000).

Richard Hampton
Secretary-Treasurer

0002#069

RULE

**Firefighters' Pension and Relief Fund
City of New Orleans and Vicinity**

**Post-DROP Accruals and Retirement Benefits
(LAC 58:V.1507)**

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans ("Fund"), pursuant to R.S. 11:3363(f), has amended LAC 58:V.1507, in accordance with the Administrative Procedure Act. The amended rule notifies the public of the board's decision to allow members to retain their DROP accounts with the Fund in excess of one year, and to withdraw amounts not less than \$1,000 from their DROP accounts on a periodic or non-periodic basis. This rule implements Act No. 1377 of the 1999 Regular Session.

**Title 58
RETIREMENT**

**Part V. Firefighters' Pension and Relief Fund for the
City of New Orleans and Vicinity**

Chapter 15. Deferred Retirement Option Plan

§1507. Post-DROP Accruals and Retirement Benefits

A. - D.1. ...

2. The Fund shall distribute to the member, upon his written application to the Fund office, a lump sum payment in an amount specified by the member. Provided, however, that the member may not elect to withdraw an amount less than \$1,000, or more than the balance in his DROP account at the time the application is filed with the Board of Trustees.

3. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363 and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 22:703 (August 1996), amended LR 26:294 (February 2000).

Richard Hampton
Secretary-Treasurer

0002#070

RULE

**Firefighters' Pension and Relief Fund
City of New Orleans and Vicinity**

Sick and Annual Leave (LAC 58:V.1305)

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans ("Fund"), pursuant to R.S. 11:3363(F), has added LAC 58:V.1305, in accordance with the Administrative Procedure Act. The new rule notifies the public of the board's intent to recognize a member's sick and annual leave for purposes of obtaining additional pension credit with the Fund.

Title 58

RETIREMENT

**Part V. Firefighters' Pension and Relief Fund for the
City of New Orleans and Vicinity**

Chapter 13. Service Credit

§1305. Sick and Annual Leave

A member may elect to utilize any sick and annual leave that he has accrued for purposes of obtaining additional pension credits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363 and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 26:294 (February 2000).

Richard Hampton
Secretary-Treasurer

0002#066

RULE

**Firefighters' Pension and Relief Fund
City of New Orleans and Vicinity**

**Trustees' Procedures Applicable to Payments
to DROP Accounts (LAC 58:V.1509)**

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans ("Fund"), pursuant to R.S. 11:3363(f), has amended LAC 58:V.1509, in accordance with the Administrative Procedure Act. The amended rule notifies the public of the board's decision to pay interest and charge an administrative fee to a member's DROP account if he elects to leave his DROP account with the Fund upon completion of his DROP participation. This rule implements Act No. 1377 of the 1999 Regular Session.

**Title 58
RETIREMENT**

**Part V. Firefighters' Pension and Relief Fund for the
City of New Orleans and Vicinity**

Chapter 15. Deferred Retirement Option Plan

**§1509. Trustees' Procedures Applicable to Payments to
DROP Accounts**

A. ...

B. The board shall maintain a detailed accounting of each individual DROP account on behalf of each member currently participating in the DROP. Each month that a payment is due on behalf of the member, the Board shall show a credit to the member's account and shall maintain a current balance showing the total credit to each member's account. At such time as the balance maintained in an individual member's DROP account shall exceed \$95,000, the board shall make all subsequent monthly payments directly to a separate Fund bank account to be known as the excess DROP account to be established at a bank other than the Fund's then current custodian bank in order to preserve full FDIC pass-through insurance for all participating members. An accounting of all such deposits exceeding

\$95,000 per member and the balance to the credit of each such individual DROP participant in the separate excess DROP account shall be maintained. The sum of the participant's balances in both banks, plus any accrued earnings, less any applicable administrative fee, shall be the total to be distributed to the Participant at such time as a distribution is due.

C.1. - F. ...

G. On an annual basis, or more frequently should the board so determine, all earnings accrued in the excess DROP account shall be transferred from the excess DROP account to the Fund's general bank account, to be invested or utilized as a general asset of the Fund. However, an accounting of all interest earned by the DROP account of any member whose DROP participation has terminated, but who has not yet received a distribution of the full amount of his DROP account, shall be made no less frequently than annually.

H. No payments, disbursements, or deductions of any kind shall be made from the assets held in the excess DROP account other than distributions owed to individual members or their beneficiaries and the transfer of earnings held in the excess DROP account to the Fund's general assets, as described in §1509.G.

I. All costs, expenses and fees payable in connection with DROP participation and/or maintenance of excess DROP account during a member's DROP participation, including any bank charges associated with the maintenance thereof, shall be paid, if and when due, only from the Fund's general assets and from bank accounts other than the excess DROP account. However, upon a member's completion of DROP participation, regardless of whether he terminates employment with the fire department, his DROP account, if left with the Fund, will be charged an administrative fee of up to 2 percent per year.

J. - P. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363, and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 22:703 (August 1996), amended by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 26:294 (February 2000).

Richard Hampton
Secretary-Treasurer

0002#071

RULE

Department of Health and Hospitals Board of Certified Social Work Examiners

Standards and Procedures
(LAC 46:XXV.Chapters 1-7)

The State Board of Board Certified Social Work Examiners adopts Rules, Standards and Procedures repealing the Board's current Rules, Regulations and Procedures and to implement Act 1309 of the 1999 Regular Session of the Louisiana Legislature. The rules applies to applicants for the RSW registration, GSW certification and the LCSW license. They also set fees, establish supervision rules, change current procedural rules for the disposition of complaints,

establish application procedures, clarify continuing education rules, and define the Standards of Practice for all credential levels.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXV. Licensed, Certified or Registered Social Workers Rules, Standards and Procedures

Chapter 1. Standards of Practice

§101. Scope and Applicability

The standards of practice apply to all applicants, and those who are registered, certified or licensed. The use of the term social worker within these standards of practice includes all applicants, and those who are registered, certified or licensed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:295 (February 2000).

§103. Purpose

The Standards of Practice/Code of Conduct provide a basis upon which to assess and measure the professional conduct of an applicant and those who are registered, certified or licensed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:295 (February 2000).

§105. Violations

A violation of the Standards of Practice/Code of Conduct constitutes unprofessional or unethical conduct and constitutes grounds for disciplinary action or denial of credential.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:295 (February 2000).

§107. General Practice Parameters

A. Character. A social worker shall maintain good moral character.

B. Client Welfare. Within the context of the specific standards of practice prescribed herein, a social worker shall make reasonable efforts to advance the welfare and best interests of a client.

C. Self-Determination. Within the context of the specific standards of practice prescribed herein, a social worker shall respect a client's right to self-determination.

D. Nondiscrimination. A social worker shall not discriminate against a client, colleague, student, or supervisee on the basis of age, gender, sexual orientation, race, color, national origin, religion, disability, political affiliation, or social or economic status. If the social worker is unable to offer services because of a concern about potential discrimination against a client, student, or supervisee, the social worker shall make an appropriate and timely referral. When a referral is not possible, the social worker shall obtain supervision or consultation to address the concern.

E. Professional Disclosure Statement. A social worker shall display at the social worker's primary place of practice

or make available for all clients a statement that the client has the right to:

1. expect that the social worker has met the minimal qualifications of education, training, and experience required by state law;
2. examine public records maintained by the Board which contain the social worker's qualifications and credentials;
3. be given a copy of the standards of practice upon request;
4. report a complaint about the social worker's practice to the Board;
5. be informed of the range of fees for professional services before receiving the services;
6. privacy as allowed by law, and to be informed of the limits of confidentiality;
7. expect that the social worker will take reasonable measures consistent with the social worker's duty of confidentiality to limit access to client information and any expressed waivers or authorizations executed by the client. Reasonable measures include restricting access to client information to appropriate agency or office staff whose duties require such access;
8. receive information that a social worker is receiving supervision and that the social worker may be reviewing the client's case with the social worker's supervisor or consultant. Upon request, the social worker shall provide the name of the supervisor and the supervisor's contact information;
9. be free from being the object of discrimination while receiving social work services; and
10. have access to records as allowed by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:295 (February 2000).

§109. Competence

A. Provision of Services

1. Social workers should provide services and represent themselves as competent only within the boundaries of their education, training, credential, consultation received, supervised experience, or other relevant professional experience.
2. Social workers should provide services in substantive areas or use intervention techniques or approaches that are new to them only after engaging in appropriate study, training, consultation, and supervision from persons who are competent in those interventions or techniques.
3. When generally recognized standards do not exist with respect to an emerging area of practice, social workers should exercise careful judgment and take responsible steps (including appropriate education, research, training, consultation, and supervision) to ensure the competence of their work and to protect clients from harm.

B. Continued Competence. A social worker shall take all necessary and reasonable steps to maintain continued competence in the practice of social work.

C. Limits on Practice. A social worker shall limit practice to the permissible scope of practice for the social worker's credential.

D. Referrals. A social worker shall make a prompt referral to other professionals when the services required are beyond the social worker's competence. Such referrals are always based solely on the best interests of the client.

E. Delegation. A social worker shall not assign, oversee or supervise the performance of a task by another individual when the social worker knows that the other individual is not credentialed to perform the task or has not developed the competence to perform such a task.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:296 (February 2000).

§111. Practice Requirements

A. Assessment or Diagnosis. A social worker shall base services on an assessment or diagnosis. A social worker shall evaluate on an ongoing basis whether the assessment or diagnosis needs to be revised.

B. Assessment or Diagnostic Instruments. A social worker shall take reasonable steps to ensure that appropriate explanations of results are given. A social worker shall ensure that an explanation of the results is provided using language that is reasonably understandable to the person assessed or to another legally authorized person on behalf of the client.

C. Plan. A social worker shall develop a plan for services which includes goals based on the assessment or diagnosis. A social worker shall evaluate on an ongoing basis whether the plan needs to be revised.

D. Mandatory Reporting. All levels of social workers are required to report in conformity with all child or elder abuse Louisiana and federal laws.

E. Supervision or Consultation. A social worker shall obtain supervision or engage in consultation when necessary to serve the best interests of a client.

F. Informed Consent

1. Social workers shall provide services to clients only in the context of a professional relationship with valid informed consent. Social workers should use clear and understandable language to inform clients of the plan for services, relevant costs, reasonable alternatives, the client's right to refuse or withdraw consent, and the time frame covered by the consent. Social workers shall provide clients with an opportunity to ask questions.

2. If the client does not have the capacity to provide consent, the social worker shall obtain consent for the services from the client's legal guardian or other authorized representative.

3. If the client, the legal guardian, or other authorized representative does not consent, the social worker shall at the earliest opportunity discuss with the client that a referral to other resources may be in the client's best interests.

G. Records

1. A social worker shall make and maintain records, written or electronic, of services provided to a client. At a minimum, the records shall contain documentation of the assessment or diagnosis; documentation of a plan, documentation of any revision of the assessment or diagnosis or of the plan; any fees charged and other billing information; copies of all client authorization for release of information and any other legal forms pertaining to the client. These records shall be maintained by the social

worker or agency employing the social worker at least for a period of six years after the last date of service, or for the time period required by federal or state law, if longer. In regards to a minor client, records must be kept six years after client reaches majority.

2. A social worker shall not represent by signature or any other means the extent of his/her participation in the provision of services (such as psychosocial evaluation, assessment, diagnosis, treatment plan, progress note or report) unless the social worker has formulated the psychosocial evaluation, assessment, diagnosis, treatment plan, progress note or report through direct contact with the client who provided the information included in the record.

3. A social worker shall not conspire or collude with another person or entity to misrepresent by signature or any other means the extent of his/her participation in the social worker's provision of services.

4. Social work students in field placement are specifically allowed to provide services under supervision. Social work supervisors may cosign all records indicating his/her supervisory function.

5. A social worker shall accurately complete and submit reports, assessments, evaluations, forms or similar documentation in a timely manner. This includes all forms requested by the Louisiana State Board of Social Work Examiners.

H. Termination of Services

1. A social worker shall terminate a professional relationship with a client when the client is not likely to benefit from continued services or the services are no longer needed.

2. A social worker has an affirmative duty to take reasonable steps to avoid under-treatment and/or precipitous termination of a client.

3. A social worker who anticipates the termination of services shall give reasonable notice to the client. A social worker shall take reasonable steps to inform the client of the termination of the professional relationship. A social worker shall provide referrals as needed and/or upon the request of the client. A social worker shall not terminate a professional relationship for the purpose of beginning a personal or business relationship with a client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:296 (February 2000).

§113. Social Work Relationships

A. Exploitation. A social worker's duty requires the promotion and advancement of the best interests and welfare of clients, students and supervisees with whom the social worker has a professional social work relationship. It is a breach of this duty for a social worker to use the professional relationship to promote or advance the social worker's emotional, financial, sexual or personal needs. Examples of exploitative behavior may include, but are not limited to, the following:

1. inappropriately disclosing aspects of the social worker's life or personal problems;

2. seeking out or accepting advice or consultation from a client on financial, personal, real estate or other business matters;

3. hiring or bartering for services of a personal nature with the client, supervisee or student at the social worker's office, home or other location. If a social worker engages in this practice the burden of proof is on the social worker to prove exploitation has not occurred;

4. entering into a sale, lease, or joint venture or other business venture with a client, supervisee or student;

5. encouraging planned social meetings or contacts between the social worker and the client such as meals, parties, sporting and recreational events or similar functions; as distinguished from unplanned or unavoidable meetings at which both the social worker and the client are in attendance; and further distinguished from such activities where social workers are legitimately expected to participate in such events;

6. inappropriate touching, holding, kissing or physical contact between social worker and client, supervisee or student;

7. giving or exchanging inappropriate gifts, gratuitous services, or personal items between the social worker and the client, supervisee or student.

B. Dual Relationships. Social workers have an affirmative duty to maintain the best interest of clients and former clients as the predominant consideration during the existence of the social worker/client relationship and thereafter. While clients and former clients with whom the social worker has or had a clinical/therapeutic relationship are at greater risk, any relationship with a client or a former client exposes clients and former clients to the risk of exploitation. Such contact tends to change the focus of the social worker's intent and impair professional judgment.

C. Burden of Proof. Social workers shall be aware, even in those instances where other relationships are not specifically prohibited, that the social worker by promoting, encouraging, or participating in any relationship with a client or former client assumes the burden of proof. The social worker must fully demonstrate that the client or the former client was neither exploited nor harmed by such relationships. This burden applies to all of the following subparts, regardless of the intent of the social worker.

1. Personal Relationships with Clinical/Therapeutic Clients. A social worker shall not engage in a personal relationship with a clinical/therapeutic client. When a social worker may not avoid a personal relationship with a clinical/therapeutic client, the social worker shall take necessary protective measures consistent with the best interests of the clinical/therapeutic client. In addition to the general burden of proof set out in §113.C, the social worker has the burden of demonstrating the appropriate measures employed.

2. Personal Relationships with Former Clinical/Therapeutic Clients. A social worker may engage in a personal relationship, except as prohibited by §113.C.4, with a former clinical/therapeutic client, if the former clinical/therapeutic client was notified of the termination of the professional relationship. The social worker has a continuing duty to safeguard the best interests of the former clinical/therapeutic client.

3. Sexual Contact with a Client, Supervisee or Student. A social worker shall not engage in or request sexual contact as defined in §113.C.5, with a client, a client's spouse or former spouse, any member of the client's

immediate family or with any person with whom the client has or has had a sexual relationship. The prohibition of this rule extends to supervisees and students during such times and under such circumstances where the social worker is in a supervisory or teaching relationship. This rule also expressly prohibits social workers from engaging in any behavior which a reasonable person would find sexually stimulating, seductive or sexually demeaning when such behavior is either directed toward or exhibited in the presence of any person with whom sexual contact is otherwise prohibited by this Rule. Social workers shall not sexually harass a client, supervisee or student.

4. **Sexual Contact with a Former Client.** A social worker who has provided clinical/therapeutic social work services to a client shall not engage in or request sexual contacts as defined in §113.C.5, with the former client under any circumstances. A social worker who has provided other social work services to a client should not engage in or request sexual contact as defined in §113.C.5, with the former client at any time if such contact exposes the former client to exploitation or harm.

5. **Sexual Contact Defined.** Sexual contact means sexual touching, sexual intercourse, either genital or anal, cunnilingus, fellatio, or the handling of the breasts, genital areas, buttocks, or thighs, whether clothed or unclothed, by either the social worker or the client.

6. **Business Relationship with a Client, Supervisee or Student.** A social worker shall not engage in any type of business relationship other than the provision of social work services, including social work supervision. Business relationships do not include purchases made by the social worker from the client, supervisee or student when they are providing necessary goods or services to the general public.

7. **Business Relationship with a Former Client.** A social worker should avoid engaging in a business relationship with a former client. The social worker has a continuing duty to safeguard the best interests of the former client.

8. **Prior Personal or Business Relationships.** A social worker should exercise caution before engaging in a professional relationship with an individual with whom the social worker had a previous personal or business relationship.

9. **Social Worker Responsibility.** A social worker shall be solely responsible for acting appropriately in regard to relationships with clients or former clients. A client or a former client's initiation of a personal, sexual, or business relationship shall not be a defense by the social worker for a violation of §113.C.1.-8.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:297 (February 2000).

§115. Client Confidentiality

A. **Written Informed Consent.** A social worker shall protect all information provided by or obtained about a client. Client information includes the social worker's personal knowledge of the client and client records, written or electronic. Except as provided herein, client information may be disclosed or released only with the client's written informed consent. The written informed consent shall explain to whom the client's information will be disclosed or

released and the purpose and time frame for the release of information.

B. **Release of client information without written consent.** A social worker may disclose client information without the client's written consent only under the following circumstances:

1. where required by federal or state law, including mandatory reporting laws, requiring release of client information;

2. where the treating social worker has made a clinical judgment that a client has communicated a significant threat of physical violence against an identifiable victim(s), with the apparent intent and ability to carry out the threat. In such case, the social worker has a duty to warn which is discharged by reasonable efforts to communicate the threat to the potential victim(s) and to notify law enforcement authorities in the vicinity of the client and the victim(s). See La. R.S. 9:2800.2;

3. where one of the enumerated exceptions to the healthcare provider-patient privilege, as specified in Article 510 of the La. Code of Evidence is applicable and the social worker is being required to give testimony at trial (hearing) or at a legally authorized deposition. See Article 510(E) of the La. Code of Evidence;

4. where the social worker is the subject of a malpractice or professional negligence claim relating to a client or former client who is claiming damage or injury; the social worker may provide such information that is directly and specifically related to the factual issues pertaining to the social worker's alleged liability. However, in such a case, information concerning the client's current treatment or condition may only be disclosed pursuant to testimony at trial or legally authorized discovery methods. See Article 510(F) of the La. Code of Evidence;

5. where the social worker is required to address allegations of a complaint brought by a client or former client which are the subject of adjudication or disciplinary hearing involving the social worker;

6. where the Louisiana State Board of Social Work Examiners issues a lawful subpoena to a social worker and the Board provides adequate safeguards to maintain confidentiality of client information or identify such as prescribed in La. R.S. 13:3715.1(J);

C. **Release of client records without written consent.** A social worker may release client records without the client's written consent under the following circumstances:

1. where a client's authorized representative consents in writing to the release;

2. where mandated by the federal or state law requiring release of records;

3. where circumstances described in §115.B and §115.B.4 apply and the social worker is lawfully issued and served with a subpoena duce tecum which complies with the formalities prescribed in La. R.S. 13:3715.1.

4. where the circumstances described in Rule 115.B.5. and Rule 115.C.6. apply and the social worker received a lawfully issued subpoena from the Louisiana State Board of Social Work Examiners.

D. **Limits of Confidentiality.** The social worker shall inform the client of the limits of confidentiality as provided under applicable law. Confidentiality limits shall include, but are not limited to, the following situations:

1. where circumstances giving rise to the list of exceptions to the healthcare provider-patient privilege listed in the La. Code of Evidence Article 510;

2. where communications to the social worker reveal abuse or neglect of children and elders which impose an obligation on social workers as mandatory reporters under the Louisiana Children's Code Article 609, La. R.S. 14:403, and La. R.S. 14:403.2;

3. where communications to the social worker relate to abuse or neglect of residents of healthcare facilities which impose duty to report under La. R.S. 40:2009.20;

4. where the social worker has a duty to warn in relation to communications of threats of physical violence under La. R.S. 9:2800.2;

5. where the social worker has been appointed to conduct an evaluation for child custody or visitation by the court or where prior communications to the social worker relate to the health conditions of a client(s) who are parties to proceedings or custody or visitation of a child and the condition has substantial bearing on the fitness of the person claiming custody or visitation.

E. Confidentiality and Minor Clients. In addition to the general directive in Rule 115.D., a social worker must inform a minor client, at the beginning of a professional relationship, of any laws which impose a limit on the right to privacy of a minor.

F. Third Party Billing. A social worker shall provide client information to a third party for the purpose of payment for services rendered only with the client's written informed consent. The social worker shall inform the client of the nature of the client information to be disclosed or released to the third party payor.

G. Continued Privacy of Information. A social worker shall continue to maintain confidentiality of client information upon termination of the professional relationship, including upon the death of the client, except as provided under applicable law.

H. Recording/Observation. A social worker shall obtain the client's written informed consent before the taping or recording of a session or a meeting with the client, or before a third party is allowed to observe the session or meeting. The written informed consent shall explain to the client the purpose of the observing, taping or recording, how the taping or recording will be used, how it will be stored and when it will be destroyed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:298 (February 2000).

§117. Conduct

A. Impairment. A social worker shall not practice while impaired by medication, alcohol, drugs, or other chemicals. A social worker shall not practice under a mental or physical condition that impairs the ability to safely practice.

B. Medication and Mind or Mood Altering Substances. A social worker shall not dispense medication or controlled substances to a client, or accept these substances from a client for personal use or gain. In an appropriate setting, a social worker may deliver a previously dispensed medication to the client for whom it was specifically prescribed or ordered by an authorized prescriber. A social worker may witness and verify the client's disposal of the client's

medication. Under no circumstances shall a social worker offer alcoholic beverages or mood altering substances to a client.

C. Investigation. All social workers shall cooperate with a social work Board investigation of any social worker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:299 (February 2000).

§119. Representation to the Public

A. Use of Social Worker Designation. A social worker shall use only the social worker designation to which they are entitled. Such designation shall be used after the social worker's name and in all written communications relating to social work practice, including any advertising, correspondence, and client records.

B. Information to Clients or Potential Clients. A social worker shall provide accurate and factual information concerning the social worker's credentials, education, training, and experience upon request from a client, potential client or supervisee. A social worker shall not misrepresent directly or by implication the social worker's license, certificate, registration, degree, and/or professional qualifications in any oral or written communication or permit or continue to permit any misrepresentations by others. A social worker shall not misrepresent, directly or by implication, affiliations, purposes, and characteristics of institutions and organizations with which the social worker is associated.

C. Restriction on Social Work Designation. Social workers, regardless of the license, certificate, or registration, shall not use such designation as a claim, promise, or guarantee of successful service, nor imply that the holder has competence in another service. A social worker must not misrepresent his/her qualifications, training or experience. If a social worker engages in advertising, his/her credentials must be presented factually.

D. Display of Credentials. A social worker shall conspicuously display a current license, certificate, or registration issued by the Board at the social worker's place of practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:299 (February 2000).

§121. Fees and Billing Practices

A. Fees and Payments. A social worker who provides a service for a fee shall inform a client of the fee at the initial session or meeting with the client. Payment arrangements must be made at the beginning of the professional relationship. If other services are necessary during the course of the professional relationship, the full fee for those services must be negotiated with the client, their legal guardian, or other authorized representative prior to the service being rendered. A social worker shall provide, upon request from a client, a client's legal guardian or other authorized representative, a written explanation of all charges for any services rendered.

B. Necessary Services. A social worker shall bill only for services which he/she has provided. A social worker shall provide only services which are necessary. If fees are to be

charged for cancellation or failure to appear for an appointment, a clear description of that policy must be provided to the client in advance of its implementation.

C. Referrals

1. A social worker shall neither accept nor give a commission, rebate, fee split or other form of remuneration for the referral of a client.

2. A social worker shall not solicit a private fee or other remuneration for providing services to clients who are entitled to such available services through the social workers' employer or agency without employer or agency approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:299 (February 2000).

§123. Evaluation and Research

A. Protocol. When undertaking research activities, the social worker shall abide by accepted protocols for protection of human subjects.

B. Informed Consent. A social worker must obtain a client's or a client's legal guardian's written informed consent for the client to participate in a study or research project. The researcher should explain in writing the purpose of the study or research, as well as the activities to be undertaken by the client, should the client agree to participate in the study or research project. The social worker must inform the client of the client's right to withdraw from the project at any time.

C. Participant Protection and Confidentiality. The social work researcher should protect participants from unwarranted harm or damage as a result of the research, and should avoid conflict of interest or dual relationships with participants. The participant's confidentiality or anonymity should also be fully explained and protected.

D. Evaluation Reports. Social work researchers must report evaluation and research findings accurately and truthfully. Participants in research should be informed of the results of the research in which they have participated if they so desire.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:300 (February 2000).

Chapter 3. General Provisions

§301. Definitions

Board Approved Supervision Workshop this workshop shall be pre-approved by the Board. At least ten (10) clock hours required for workshop to be acceptable and shall deal with the theory and techniques of supervision.

Client the individual, couple, family, group, organization, or community that seeks or receives social work services.

Clinical Social Work Practice the practice of clinical social work requires the application of specialized clinical knowledge and advanced clinical skills in the areas of prevention, assessment, diagnosis and treatment of mental, emotional, and behavioral and addiction disorders. Treatment methods include the provision of individual, marital, couple, family, and group psychotherapy. The practice of clinical social work may include, but is not

limited to, private practice, employee assistance and addiction services.

Continuing Education education and training, which are oriented to maintain, improve or enhance social work practice.

Continuing Education Contact Hour a sixty (60) minute clock hour of instruction, not including breaks or meals.

Conviction conviction of a crime by a court of competent jurisdiction and shall include a finding or verdict of guilt, whether or not the adjudication of guilt is withheld or not entered on admission of guilt, a no contest plea, a plea of nolo contendere, and a guilty plea.

Counseling a method used by social workers to assist individuals, couples, families, and groups in learning how to solve problems and make decisions about personal, health, social, educational, vocational, financial, and other interpersonal concerns.

Credential can be the registration (RSW), certification (GSW) or license (LCSW) regulated by the Louisiana Social Work Practice Act.

Detrimental to the Client an act or omission of a professional responsibility that is damaging to the physical, mental, social or financial status of the client.

Examination a standardized test or examination of social work knowledge, skills, and abilities, which has been approved by the Board.

Exploitation an unequal power balance is inherent in the client/social worker relationship. This power imbalance is weighted toward the social worker. To use this power imbalance for the good of the social worker at the expense of the client is exploitation. Exploitation may take financial, business, emotional, sexual, verbal, religious and/or relational forms.

Felony criminal conduct punishable by imprisonment at hard labor or as otherwise defined as a felony by this state or any other state or by federal law.

Good Moral Character the aggregate of qualities evidenced by past conduct, social relations, or life habits, which actually provide persons acquainted with the applicant a basis to form a common favorable opinion regarding the social worker's ethics and responsibility to duty.

Gross Negligence in the practice of social work, means conduct by either act or omission involving a legal or professional duty about which the social worker displays conscious indifference and where the consequences of such conduct could adversely affect the rights or welfare of those persons to whom the social worker owes the duty.

Independent Practice means practice of social work outside of an organized setting, such as a social, medical, or governmental agency, after completion of all applicable supervision requirements, in which the social worker assumes responsibility and accountability for services provided. LCSWs also engage in independent practice within an agency setting.

Private Practice an activity characterized by contracting directly and receiving direct payment from clients or agencies to provide clinical services, educational services, consultation, research or supervision, as an autonomous practitioner solely responsible for the welfare of the client and for the services rendered.

Psychotherapy the use of treatment methods utilizing a specialized, formal interaction between a social worker and

an individual, couple, family, or group in which a therapeutic relationship is established, maintained and sustained to understand unconscious processes, intra personal, interpersonal and psychosocial dynamics. Psychotherapy requires the application of diagnosis and treatment to mental, emotional, and behavioral disorders, conditions and addictions.

Social Work Employee such status requires that the social worker provide direct or indirect social work services, receive remuneration from an employer for these services, and that the social worker's employer deduct federal withholding tax, FICA or other retirement benefits from the salary or wages.

Supervisee any person under the supervision of a credentialed social worker. The supervisee may be an applicant for social work credentials, an employee under the supervision of the LCSW, GSW or RSW, or a person who contracts with the licensed social worker for supervision.

Supervision within an Agency the professional relationship between a supervisor and a social worker that provides evaluation and direction over the services provided by the social worker and promotes continued development of the social worker's knowledge, skills, and abilities to provide social work services in an ethical and competent manner.

Supportive Counseling the methods used by social workers to help individuals create and maintain adaptive patterns. Such methods may include building community resources and networks, linking clients with services and resources, educating clients and informing the public, helping clients identify and build strengths, leading client and community groups, and providing reassurance and support.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:300 (February 2000).

§303. Practice

A. Social Work Practice. Any person practicing social work without license, certification, provisional certification, or registration is subject to the provisions of R.S. 37:2720, including injunctive proceedings and prosecution.

B. Independent and Private Practice. Only a licensed clinical social worker may engage in the independent and private practice of social work.

C. Graduate Social Workers, Provisional Graduate Social Workers and Registered Social Workers shall not:

1. contract directly with individuals, couples, families, agencies or institutions for clinical services, consultation, supervision or educational services;
2. bill for services rendered;
3. receive direct payment for services;
4. claim to be licensed or in private practice.

D. Graduate Social Workers and Provisional Graduate Social Workers may:

1. practice clinical social work within an agency under the supervision of a licensed clinical social worker and shall meet the supervision requirements of Chapter V. Minimum Supervision Requirements. Rule No. 505.

E. Applicants for registration, certification, or licensure who indicate on their application that they have been

employed for more than 120 days as a social worker in the State of Louisiana are subject to the provisions of R.S. 37:2720.

F. An applicant who meets all the requirements of R.S. 37:2706, 2707, or 2708 and who has worked more than 120 days as a social worker in the State of Louisiana and who has not otherwise violated any part of R.S. 37:2701-2723 or its Rules, may be offered the following options in the form of a consent order and agreement to resolve the situation:

1. completion of ten (10) pre-approved continuing education hours in ethics to be completed within three (3) months of issuance of the registration, certification or license, in addition to the 20 clock hours of continuing education required for the annual renewal of the registration, certification or license; or

2. passing score on an open book examination on the Louisiana Social Work Practice Act and the Rules, Regulations and Procedures, to include the Standards of Practice for Social Workers;

3. the consent order and agreement shall not be considered disciplinary action and shall not be reported to the professional organizations or published in the Board's newsletter.

G. In accordance with R.S. 37:2709, which states in part that the license, certificate, provisional certificate, or registration shall be kept conspicuously posted in the office or place of business at all times, it is permissible to post the original certificate of license, certification, provisional certification, or registration or a copy of the original certificate of license, certification, provisional certification or registration, or the current identification card received from the Board upon renewal of the license, certification, provisional certification or registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:301 (February 2000).

§305. Qualifications for Registration, Certification, Licensure

A. Registered Social Worker (RSW)

1. Must be of good moral character.
2. The applicant shall have his/her university submit official transcript indicating the receipt of a bachelor of social work, bachelor of arts, or bachelor of science degree from an undergraduate social work program, accredited by the Council on Social Work Education.

B. Graduate Social Worker (GSW)

1. Must be of good moral character.
2. The applicant shall have his/her university submit official transcript indicating the receipt of a master's degree of social work from a graduate social work program, accredited by the Council on Social Work Education.
3. The applicant shall obtain a passing score on an examination approved by the Board.
4. Grandfather Period: The Board shall waive the examination requirement for applicants who submit a completed and notarized application and appropriate fee at any time within one calendar year from January 1, 2000.

C. Provisional Graduate Social Worker (Provisional GSW)

1. The Board may issue provisional certification to an applicant who meets all requirements for the GSW

certification except for passing the examination approved by the Board.

2. The individual may hold the provisional certificate for up to three (3) years from the date of issuance of the original certificate provided the individual takes the examination approved by Board at least once each year.

3. It is the responsibility of the Provisional GSW to submit proof of examination to the Board office once each year of eligibility.

D. Licensed Clinical Social Worker (LCSW)

1. The applicant must be of good moral character.

2. The applicant shall have his/her university submit official transcript indicating the receipt of a master's degree of social work from a graduate social work program, accredited by the Council on Social Work Education.

3. The applicant shall submit documentation verifying at least 36 accumulated months of full-time post graduate social work practice on a form provided by the Board.

4. The applicant shall submit documentation verifying at least 24 accumulated months of supervision post graduate social work experience in accordance with the Board's supervision rules and on the form provided by the Board.

5. Supervised experience must be under the supervision of a Board approved clinical supervisor.

6. The applicant shall obtain a passing score on an examination approved by the Board.

E. Board certified social workers who hold valid, current licenses on January 1, 2000, must submit an affidavit to the Board on or before December 31, 2000, requesting that their status be changed to licensed clinical social worker. Board certified social workers who do not submit an affidavit by December 31, 2000, will be assigned the graduate social work status effective January 1, 2001, and shall be subject to the qualifications listed in R.S. 37:2708 to change their status after January 1, 2001.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:301 (February 2000).

§307. Administration of Examination

A. Examination

1. The social work examination shall be administered at least once per calendar year at a time and place designated by the Board.

2. The Louisiana State Board of Social Work Examiners recognizes the examinations of the Association of Social Work Boards as the national examination for social workers.

3. Examination Pass Point. The Board shall administer and grade a written examination or employ a national recognized testing firm to do the same. Whichever method is used, the Board will consistently strive to improve reciprocity with other states having licensure comparable to Louisiana. A pass score of 70 will be used to grade the examination for the licensed clinical social worker and the graduate social worker.

B. Retake of Examination

1. Applicants must complete a Retake Application and submit the retake fee to the Board office.

2. If more than eighteen months has lapsed since the last examination an applicant for retake must submit an updated application for license.

3. Applicants for the LCSW license must submit an Employer Verification Affidavit for each place of employment after receipt of the MSW degree.

4. The Board shall observe the retake policy of the testing service.

C. Examination Review Policy. The Board may allow candidates to review failing examinations, at applicants' expense, in accordance with the rules of the Association of Social Work Boards.

D. Preparatory Course

1. The Board shall not endorse nor in any way participate in the operation or planning of any preparatory or cram course allegedly preparing applicants for the social work examination.

2. No former member of the Board of examiners may take part in the development, sponsorship or administration of any preparatory or cram course offered to candidates for the social work examination for two (2) years after said Board member's term of office has expired.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:302 (February 2000).

§309. Application Procedure

A. Application forms and instructions may be obtained by making a written, telephone or electronic request to the Board office.

B. Applications for license, certification or registration are reviewed and approved by the Board at regularly scheduled Board meetings.

C. Applications must be submitted to the Board office at least seven days prior to the Board's meeting to be eligible for consideration.

D. The Board shall refuse to consider any application not complete in every detail, including submission of every document required by the application form. At the Board's discretion a more detailed or complete response to any request for information set forth on the application form may be required.

E. The application fee for licensure, certification, provisional certification, or registration must be submitted in the form of a money order or certified check.

F. Applicants for the LCSW license must submit an Employer Verification Affidavit for each place of employment in Louisiana after receipt of the MSW degree.

G. Applicants for the LCSW license must submit proof of 24 months of accumulated supervised experience on the forms provided by the Board.

H. Non-resident applicants may submit proof of 24 months of accumulated supervised experience completed out of state on the forms provided by the Board and given by a social worker licensed at a level equivalent to the LCSW.

I. Non-resident applicants may submit verification of out of state accumulated social work employment to qualify for the LCSW license.

J. The application for licensure, certification, provisional certification and registration requests the applicant's social security number for identification purposes; however, submission is optional.

K. The official transcript from a university accredited by the Council on Social Work Education verifying receipt of a

master's degree must be received directly from the university.

L. Graduates of a school unaccredited but in candidacy status with the Council on Social Work Education may not be approved for registration, certification, or licensure unless retroactive accreditation is awarded to the school from which the applicant/student graduated.

M. MSW graduates of a school unaccredited but in candidacy status with the Council on Social Work Education may be allowed to pursue the supervision and experience requirements for licensure as a licensed clinical social worker, but not be allowed to sit for the examination or receive the LCSW license unless retroactive accreditation is awarded to the school from which the MSW graduated.

N. Procedure for Social Workers with Felony Convictions.

1. The burden of proof for submitting the requested documentation is the responsibility of the BSW or MSW applicants in order to convince the Louisiana State Board of Social Work Examiners that he/she has good moral character and fitness to practice social work.

2. The BSW or MSW applicant should collect and deliver the following documents to the Board office promptly:

a. copies of all court records containing information of the conviction and the imposition of sentence;

b. the current name, address, and telephone number of the judge who imposed sentence and who presided at the trial and/or accepted any plea upon which the felony conviction was based;

c. any documentation or records which reflect the term of any probationary period, the conditions of probation and the fulfillment and completion of all terms and conditions of probation;

d. the current name(s), addresses and telephone numbers of any probation officers or persons of similar title or job function to whom the applicant has reported or who has any information concerning the applicant's conduct during any probationary period;

e. if any form of restitution to a victim or victims was part of a sentence imposed or a condition of probation the applicant must provide the names, current addresses and telephone numbers of any such victim or victims and an affidavit of the applicant that affirms that all required restitution has been completed;

f. if the sentence included any form of imprisonment, residence at a half-way house, other forms of correctional and/or treatment facilities, the applicant must provide the complete address, names and current addresses of any persons having information relating to the satisfactory completion of any such prison term, residence or treatment, and any related documents. In the event that medical, psychiatric, psychological, substance or alcohol abuse evaluation, treatment and rehabilitation was in any way part of the sentence or a term or condition of probation, the applicant will execute any releases which may be required for the Board to obtain information. Such information obtained will be maintained by the Board on a confidential basis;

g. all records or documents relating to any arrest or conviction of any felony or misdemeanor which has occurred at any time since the applicant's original felony

conviction or which occurs at any time during which the application is pending or being investigated (this requirement is an ongoing responsibility of the applicant);

h. any documents, records, or information which the applicant wishes to present in support of his or her application which shows or evidences rehabilitation, positive social contributions, awards, commendations, social or lifestyle adjustments, positive treatment outcomes, employment or academic evaluations, volunteer work or any other area in which the applicant participated which would reflect on the applicant's good moral character and fitness to practice social work. (The applicant should provide the names, current addresses and telephone numbers of any references or persons having information in support of the application. While information in support of an application which occurred prior to the conviction may be submitted, the Board will place greater emphasis on supporting documentation and information concerning events which have occurred since the felony conviction);

i. true copies of any licenses, certificates to practice or similar documents issued by any Board or licensing authority of any other state or the state of Louisiana obtained by the applicant since the date of the felony conviction. The applicant should provide a complete listing of any college, graduate school, trade or business school and employers to whom he or she has made application since the date of the felony conviction. This request includes any applications which were denied for any reason, including the felony conviction.

3. BSWs and MSWs should be aware of the following:

a. any delay in providing the requested information will delay the Board's action on the application;

b. providing any false or misleading information, being evasive, concealing or making material omissions, or failing to cooperate shall form a basis for the denial of the application;

c. in the event that the application is denied by the Board, the applicant may request a Compliance Hearing provided the application for such a hearing is made in writing within thirty days after the applicant receives the notice of the denial of the application. The request shall contain the applicant's receipt of the notice of the denial of the application, and the applicant's grounds for opposition to the denial of the application. The applicant is further aware that at such a hearing the applicant may be represented by legal counsel and the applicant bears the burden to establish that he or she meets the criteria for licensure;

d. the intent of the above enumerated items is to obtain the information upon which the Board will evaluate the application.

O. Additional Requirements for International Applicants/ Speakers of English as a Second Language

1. Any document required to be submitted to the board with an application for license, certification or registration shall be in the English language, or accompanied by a certified translation thereof into the English language.

2. As a condition of the board's consideration of the application of a graduate of a foreign college or university, the applicant shall provide the board with a statement from the Council on Social Work Education that the applicant's

degree is equivalent to an accredited social work degree in the United States.

3. Applicants moving into the United States from out of the country may have 120 days to complete the application process to allow time to compete the additional requirements for foreign graduates/speakers of English as a second language.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:302 (February 2000).

§311. Renewals and Cancellation

A. Renewal notices are mailed on June 20 of each year. The renewal fee is due between June 20 and November 30 of each year.

B. Licensed Clinical Social Workers must list those Graduate Social Workers under their supervision for licensure requirements and agency setting on their renewal form.

C. Twenty clock hours of continuing education in programs approved by the Board shall be obtained prior to June 30 of each year.

D. A lapsed license fee may be paid between December 1, and February 28, of each year and the license, certificate or registration will be renewed. (The lapsed fee equals twice the amount of the renewal fee.)

E. Without payment of the lapsed fee, the license, certification or registration is canceled after February 28, and a certified notice of cancellation is mailed.

F. When a LCSW license is allowed to lapse after February 28, the applicant will be required to pay the appropriate application and examination fees and retake and pass the examination. If the individual is unsuccessful at a compliance hearing concerning this matter, s/he shall be required to file a new application, subject to the examination procedures, and pay those required fees. However, such an applicant need not duplicate the two years of social work supervision or proof of graduate degree and may be reinstated upon successful completion of the examination and payment of the appropriate fee to the Board.

G. When a GSW certification is allowed to lapse after February 28, the applicant will be required to pay the appropriate application and examination fees and retake and pass the examination. If the individual is unsuccessful at a compliance hearing concerning this matter, s/he shall be required to file a new application, subject to the examination procedures, and pay those required fees. However, such an applicant need not duplicate the proof of graduate degree and may be reinstated upon successful completion of the examination and payment of the appropriate fee to the Board.

H. When a RSW registration is allowed to lapse after February 28, the applicant will be required to pay the appropriate application fee. If the individual is unsuccessful at a compliance hearing concerning this matter, s/he shall be required to file a new application and pay the Registration fee to the Board.

I. It is the social worker's responsibility to keep the Board informed of his/her current mailing address.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:304 (February 2000).

§313. Fees

A. The fees charged by the Louisiana State Board of Social Work Examiners shall be as follows:

Application Fee for LCSW	\$100.00
Application Fee for GSW	75.00
Application Fee for RSW	50.00
Application fee for retake of LCSW	50.00
Application fee for retake of GSW	50.00
Renewal Fee for LCSW	75.00
Renewal Fee for GSW	50.00
Renewal Fee for RSW	25.00
Late Renewal Fee for LCSW (after November 30.)	150.00
Late Renewal Fee for GSW (after November 30.)	100.00
Late Renewal Fee for RSW (after November 30.)	50.00
Directory Fee	25.00
Registration Fee for Supervision for LCSW License	35.00
Fee for Returned Checks	25.00
Reissuance of lost or destroyed certificate	25.00
Seal of Authenticity	5.00
Reissuance of lost or duplicate identification card	5.00
Fee for mailing labels	\$0.03 per label plus postage & handling
Copy fee for documents	\$0.25 per page plus postage & handling
Fee for Board publications	5.00 each plus postage & handling
Fax transmissions	5.00 first page 1.00 each additional page

B. Subpoena Fees. Fees must be submitted in advance for issuing a subpoena. A written request must be submitted to the Board office, listing the name and address of the individual to be subpoenaed.

Subpoenas issued in East Baton Rouge Parish	\$50.00
Subpoenas issued outside of East Baton Rouge Parish	50.00 plus \$0.30 per mile for service
Written verification of license, certificate or registration	5.00

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:304 (February 2000).

§315. Board Members

A. Officers. The Board shall elect annually at the June Board meeting, a Chairman, vice-chairman, and secretary/treasurer whose responsibilities are included in the Policy Manual.

B. Meetings

1. The Board shall schedule monthly meetings in December for the following calendar year.

2. A schedule of meeting dates shall be published in the Board newsletter.

3. Any Board member who misses three (3) Board meetings, barring extenuating circumstances approved by the Board, during the course of one calendar year shall resign from the Board.

4. Special travel requests, other than regularly monthly meetings, must be approved by the Board at regular monthly meetings.

C. Expense Reimbursement

1. Expenses charged to the Board must be consistent with the time frame and mission of Board meetings and other function. Expenses which are exceptions to this policy may be paid with justification and approval by the Board.

2. Board members shall be reimbursed for actual traveling, incidental, and clerical expenses incurred while engaged in official duties.

a. Mileage expenses shall be reimbursed at the official state rate.

b. Airfare expenses must be at the state contract rate or economy class rate when contract rates are not available.

c. Lodging and meals shall be reimbursed at actual cost if receipts are submitted. Without receipts, lodging and meals shall be reimbursed at the appropriate state rate.

d. Incidental expenses are defined as telephone calls, fees for storage and handling of equipment, tips for baggage handling, parking fees, ferry fees, and road and bridge tolls.

3. Registration fees for conferences and room rental for a conference meeting are reimbursed at actual cost, but must be approved by the Board at a regular monthly meeting.

4. Clerical expenses for individual Board members shall be pre-approved by the Board at a regular monthly Board meeting.

D. Vacancies. The Board shall notify all social workers and professional social work organizations of vacancies on the Board, the qualifications required to serve, and the process for nominations by placing a notice in the board's newsletter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:304 (February 2000).

§317. Continuing Education Requirements

A. The purpose of continuing education is to protect the public by:

1. ensuring that the practitioner has formal opportunities to upgrade and update professional knowledge and skills; and

2. encouraging the practitioner to learn from other professionals; and

3. assisting the professional to expand his/her expanded professional resource network.

B. Consequently, approved learning situations emphasize opportunities for professional interaction and relationship-building.

C. Any credentialed social worker may be audited, so it is important to keep good records of continuing education experiences for at least one year and to be able to explain the nature of the content covered.

D. Random audits are done to ensure that the continuing education mandate is applied fairly to all credentialed social workers.

E. The collection period for continuing education hours is July 1, through June 30 of each fiscal year.

F. Continuing education hours are pro-rated as follows during the initial year of registration, certification or licensure:

Month Received	# Hours Required
April, May, June	0
July, August, September	20
October, November, December	15
January, February, March	10

G. Continuing education hours collected in the month of June may be used for the current collection period or may be carried over to the next collection period.

H. In the case of extenuating circumstances, when the individual does not fulfill the continuing education requirements, the individual shall submit a written request for extension to the Board for consideration.

I. Continuing Education Requirements for the Registered Social Worker:

1. twenty clock hours of continuing education in programs approved by the Board shall be obtained prior to each renewal date including three (3) clock hours in social work ethics once every two years.

J. Continuing Education Requirements for Graduate Social Worker:

1. twenty clock hours of continuing education in programs approved by the Board shall be obtained prior to each renewal date, including three (3) clock hours in social work ethics once every two years.

K. Continuing Education Requirements for Licensed Clinical Social Worker:

1. twenty clock hours of continuing education in programs approved by the Board shall be obtained prior to each renewal date to include:

a. three (3) clock hours in social work ethics once every two (2) years;

b. ten (10) clock hours in social work supervision, once every five (5) years to maintain the Board approved clinical supervisor status; and

c. ten (10) clock hours each year shall be clinical content including diagnosis and treatment.

2. for the collection period July 1, 1999 through June 30, 2000 only, LCSWs must collect twenty clock hours of continuing education in programs approved by the Board to include:

a. three (3) clock hours in social work ethics once every two years;

b. ten (10) clock hours in social work supervision, once every five (5) years to maintain the Board approved clinical supervisor status, and

c. five (5) clock hours of clinical content, including diagnosis and treatment.

L. The following learning forums are approved for continuing education:

1. educational offerings (workshops, conferences, courses, seminars, teleconferences, telecourses, and Internet courses) sponsored by the following professional organizations: Louisiana Council for Social Work Education,

National Association of Social Workers, National Federation of Clinical Social Work Society, Council on Social Work Education, and Association of Social Work Boards or other appropriate professional organizations. Workshops with a social work focus which are offered by individual social workers or organizations and approved by one of the above professional organizations for CE credits are also acceptable;

2. distance learning (teleconferences, telecourses, and Internet courses) cannot exceed a total of 8 clock hours of the required 20 clock hours of continuing education required annually for renewal of social work credentials;

3. continuing education activities or academic courses provided by accredited schools of social work. Academic course work counts per actual class hour;

4. presentations of social work content at professional conferences, staff development meetings, and other appropriate forums in which you are the primary presenter. These presentations count 12 times the actual time of the presentation, in order to give credit for preparation time. (Example: You prepare a presentation on Holiday Stress that last one (1) hour. You will receive 12 hours continuing education credit for this presentation.) Presentation and preparation time may only be counted once for each topic. Academic preparation and teaching of social work content (undergraduate or graduate) may be counted once in the same manner, unless the course has been revised to include substantially new content and text books. Please be prepared to provide the exact nature of the content and presentation;

5. teleconferences which deal with social work content, are presented by a creditable and knowledgeable presenter, and are aimed at a professional audience;

6. attendance at staff development presentations with a social work focus (such as staff meeting with a formal and in-depth presentation on working with clients who present borderline symptoms). Please be prepared to provide the dates and nature of the content covered. Case based staffing meetings are not included as appropriate continuing education experiences;

7. attendance at professional social work meetings, Association of Social Work Boards (ASWB) item writing workshops, symposiums, panel discussions, or conferences sponsored by the professional associations suggested in Rule #117.L.1. Please be prepared to provide the dates and nature of content covered;

8. formal study groups of three or more participants with peer consultation. Please submit name, address, telephone number, and credentials of group members to the board office. Study groups should maintain records of topics, attendance, meeting times, and presenters;

9. a GSW must be a salaried employee of an agency, organization, or facility that delivers social work services. The individual is considered an employee if:

10. preparation of substantial written material with a social work focus which requires literature search, research, and explication of social work content (such as writing a social work article or book for publication, or a major grant application). Please provide specific information about the nature of the written work, the effort required, and the publisher or funding agency. These activities may be counted for no more than five (5) hours continuing education;

11. social workers should be doing consistent independent study. However, such study does not meet the goal of increasing professional relationships and networks. Consequently self-study programs are approved only for rural areas or if the licensee is physically incapacitated. All self-study programs must receive pre-approval from the Board.

M. The intent of the continuing education requirement is to enhance competence, not to cause undue expense or burden to the credentialed social worker. The Board encourages social workers to develop learning options which enhance their abilities to do their various social work roles. For instance:

1. a study group might have presentations from professionals who represent different community resources for clients, or might have formal book reviews and discussions of substantial social work books;

2. a staff development meeting might examine recent federal or state policies which affect social work services, or ways to increase cultural diversity and sensitivity among staff;

3. a social work faculty meeting might have a formal presentation on how to work with students who have diagnosed mental health conditions;

4. an administrator might contract for consultation on how to deal with staff who are drug or alcohol impaired.

N. The following learning situations will not be accepted:

1. banquet speeches;

2. non-social work content courses not directly related to enhancement of social work skills or performance as a social work employee. (Example: Computer, financial or business management courses designed to enhance the business of private practice);

3. staff orientation, administrative staff meetings and case management meetings;

4. book reports or critiques of professional journal articles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:305 (February 2000).

§319. Reciprocity and Endorsement

A. Reciprocity with other states and territories having comparable licensure, certification or registration is permissible as approved by the Board.

B. In cases wherein no formal reciprocity agreement has been made, the Board may endorse the license, certification or registration of a social worker moving to Louisiana from a state or territory with equivalent license, certification or registration standards.

C. The written examination may be waived by the Board and a Louisiana license or certification issued if the following specific requirements are met:

1. the applicant is currently licensed or certified to practice social work in another state with standards equivalent or greater to those of Louisiana;

2. the applicant presents evidence that he/she meets the qualifications of L.S. 37:2701-2723;

3. the applicant has passed the Advanced, Clinical, or Intermediate examination of the American Association of

State Social Work Boards in order to secure current social work license or certification in the state of Louisiana;

4. the applicant submits the required fees;
5. the applicant submits the completed application for endorsement;
6. the Verification of License in Other State Form is completed by the state in which the applicant has current licensure or certification and submitted to the Louisiana Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:306 (February 2000).

§321. Certificate Lettering

A. Only the individual's name will be placed on the certificate. No degrees, honors, or other information shall be added.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:307 (February 2000).

§323. Causes for Disciplinary Action

A. Disciplinary action, including denial, suspension, revocation and other disciplinary options available to the Board are set out in LSA-R.S. 37:2717, these Rules, Standards, and Procedures and the Louisiana State Administrative Procedure Act.

B. The Board will notify the professional community within 30 days of any disciplinary action including the discipline, the social worker's name, location, offense and sanction imposed. A notice of the disciplinary action also will be published in the Louisiana State Board of Social Work Examiners' Newsletter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:307 (February 2000).

Chapter 5. Minimum Supervision Requirements

§501. The GSW who Pursues the LCSW Credential, or who Provides Clinical Supervision which Constitute Psychotherapy Must be Supervised

A. A GSW must be a salaried employee of an agency, organization, or facility that delivers social work services. The individual is considered an employee if:

1. he or she provides direct or indirect social work services;
2. she or he receives remuneration from an employer for these services;
3. the employer withholds federal income taxes and F.I.C.A. from the salary.

B. The GSW pursuing licensure must be employed at least 30 hours per week. Volunteer work is not counted toward meeting the employment criteria.

C. GSWs shall not:

1. contract directly with agencies nor with clients for clinical services, consultation, supervision, or educational services except as a salaried employee;
2. bill directly for services rendered; or
3. claim to be licensed or in private practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:307 (February 2000).

§503. GSWs Seeking the LCSW Credential

A. GSWs seeking the LCSW credential must receive a minimum of 24 accumulated calendar months of supervised full-time postgraduate social work practice under the supervision of a Board-Approved Clinical Supervisor (BACS).

B. MSW applicants who began their supervised experience on or before December 31, 1999 and filed a Contract for Supervision at the board office postmarked on or before December 31, 1999, shall be required to submit only 24 accumulated months of supervised post graduate social work experience in accordance with the boards supervision rules and on the forms provided by the board to qualify for the LCSW examination and license.

C. A calendar month is counted from the first working day of the month to the last day of that month. GSWs may obtain a list of Board-Approved Clinical Supervisors (BACS) from the Board Office.

D. Face-to-face supervision for licensure must total at least 96 hours.

E. Supervision segments of no fewer than 30 minutes will be counted toward meeting the supervision requirement.

F. The requirement for supervision is at least 4 hours per calendar month with at least two different supervision contacts per month.

G. One-half (48 hours maximum) of the supervision requirement may be met through group supervision, occurring in increments of no more than two (2) hours per group. No more than five (5) supervisees may be involved in supervision groups.

H. The supervisee and supervisor must keep accurate records of both the dates of supervision times and the hours spent in supervision for potential audit of records. This information must be submitted to the Board office on the supervision form entitled *Record of Supervision*.

I. Supervised work experience eligible to be counted towards licensure begins on the first working day of the first full calendar month after the first supervisory session.

J. School social workers may only count supervision that occurs during the full months in which they are employed in a social work position.

K. Supervisees and supervisors must submit on a timely basis all required forms as designated in the Louisiana State Board of Social Work Examiners' *Supervision for Professional Development and Public Protection: A Guide* (available from the Board Office).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:307 (February 2000).

§505. The GSW Not Pursuing the LCSW Credential

A. The GSW who is not pursuing LCSW licensure, or who is fulfilling the experience requirement toward licensure, may deliver those clinical services which constitute psychotherapy only under the supervision of an LCSW. Supervision under these circumstances does not require that the supervising LCSW have the Board Approved Clinical Supervisor (BACS) designation.

B. Regardless of the time spent in clinical practice, the GSW must be supervised in accordance with the following rules.

C. The employing agency ultimately is responsible and accountable for services rendered by the GSW; therefore, the agency may provide access to LCSW supervision to ensure quality of services. The GSW may independently secure LCSW supervision.

D. On-site supervision by LCSWs is the preferred method of supervision.

E. Supervision may be rendered through individual supervision, group supervision, telephone contact or by secure electronic media to meet the needs of the agency and to provide timely services to clients in emergencies.

F. Supervision for GSWs rendering clinical services constituting psychotherapy shall total a minimum of two hours per month, counted in increments of no fewer than 30 minutes, for the duration of the time that the GSW is rendering psychotherapeutic services.

G. The supervisee and supervisor must keep accurate records of both the dates of supervision, times and hours spent in supervision for potential audit of records. The Board at its discretion may ask for a copy of the record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:307 (February 2000).

§507. Board-Approved Clinical Supervisor

A. To qualify for the Board-Approved Clinical Supervisor (BACS) designation, a social worker must:

1. hold the LCSW license;
2. verify at least three years of full-time social work experience at the LCSW level;
3. submit two letters of reference to the Board from other professionals (one of whom should be an LCSW) who are familiar with the licensee's work, including supervision skills;
4. participate in a Board Orientation Workshop;
5. participate in a board pre-approved workshop on the theory and techniques of supervision as well as procedures used in supervision toward licensure of at least ten (10) hours duration;
6. all requirements must be met before the social worker becomes a BACS.

B. To continue the BACS designation in good standing, the social worker must:

1. maintain LCSW licensure;
2. appropriately conduct all supervisory duties explicated in the Louisiana State Board of Social Work Examiners' *Supervision for Professional Development and Public Protection: A Guide* (available from the Board Office);
3. Participate in a board pre-approved workshop on the theory and techniques of supervision as well as procedures used toward licensure of at least ten (10) hours duration once every five (5) years effective July 1, 1995. This means those BACS supervisors who achieved their BACS status before July 1, 1995, must attend another supervision workshop before June 30, 2000, and every five (5) year period thereafter.
4. failure to comply with all regulations explicated in the Board's *Supervision for Professional Development and*

Public Protection: A Guide may result in the Board lifting the BACS designation from the LCSW license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:308 (February 2000).

Chapter 7. Procedural Rules

§701. Authority

Consistent with the legislative purpose specified in LSA-R.S. 37:2701 through 2723, and to protect the safety and welfare of the people of this state against unauthorized, unqualified and improper practice of social work, the following rules, standards, and procedures are established under the Board's rule making authority of LSA-R.S. 37:2705(C), 37:2717(C)(E) and LSA-R.S. 49:952.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:308 (February 2000).

§703. Complaint Origination

A. The Board is authorized to receive from any person a complaint or complaints against social workers licensed, certified, provisionally certified, or registered under LSA-R.S. 2701, *et seq.*, (hereinafter referred to as Social Workers), as well as complaints against any level of social work applicant. Throughout these rules, the term license or licensed includes the term certification, provisional certification, and registration and also applies to any social workers who are certified, provisionally certified, or registered. The Board is also authorized to initiate such complaint(s) when the Board otherwise possesses or obtains information which satisfies the Board that such a complaint is warranted.

B. Any complaint bearing on a social worker's professional competence, conviction of a crime, unauthorized practice, the assisting of unauthorized practice, mental competence, neglect of practice, or violation of the Social Work Practice Act (including these rules and standards), or for any of the causes specified for disciplinary action in LSA-R.S. 37:2717 shall be submitted to the Board in a timely manner and in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:308 (February 2000).

§705. Investigation Procedures

A. When the Board receives a written complaint, report, or other information which, if established as being true, would constitute just cause under the law for revocation, suspension, denial of license, or any other form of discipline specified in LSA-R.S. 37:2717(B), the Board may refer the complaint, report or information to the Board Administrator and/or to the Board's designated complaint investigation officer (hereinafter referred to as the CIO). The CIO may be an employee of the Board or provide investigation services under contract with the Board. The Board's Administrator and staff and/or the CIO shall conduct such investigation or inquiry as the Board deems appropriate to determine whether there is probable cause to initiate formal administrative proceedings against the involved social worker. To assist in the investigation, the Board is authorized

to issue, as necessary or upon request, such investigative subpoenas as may be required to obtain documents, the appearance of witnesses, or sworn statements or testimony.

B. Except for the notice required by Rule 711.B. and Rule 737.C., all other notices, correspondence or written communication relating to complaints, investigations, notices of investigations, conferences, decisions, orders, etc., may be served on or delivered to the involved social worker, complainant(s), or witnesses by regular mail or, when deemed appropriate or necessary by the Board or its administrator, by personal delivery (service) or other available means. Notices shall be delivered with the designation *Personal and Confidential* clearly marked on the outside of the envelope.

C. Under normal circumstances, the involved social worker will receive prompt written notice from the Board's Administrator of the initiation or pendency of an investigation. The notice shall contain sufficient detail of the nature and the basis of the complaint or other information giving rise to the investigation, as well as a preliminary statement of the possible violations involved. The notice shall also provide the social worker with an opportunity to respond in writing to the complaint or to provide other information relating to the investigation. When such notice, in the judgment of the CIO and/or the Board's Administrator, is likely to prejudice the investigation, the notice may be delayed. Any delay in the notice to the involved social worker beyond the first 20 days of the investigation will require the Board's Administrator to obtain Board approval for any additional delay.

D. Board members as members assigned by the agency to make findings of fact and conclusions of law will not and may not participate in the investigation. No Board member shall accept contact or communicate with a social worker involved in an investigation, any person on behalf of the social worker, legal counsel for any party, the complainant, witness, or potential witness. If any of these persons attempt to contact a Board member, the Board member shall promptly refer the matter to the Board's Administrator and/or the Board's legal counsel. This restriction conforms with LSA-R.S. 49:960(A) and is not intended to restrict those routine communications which are in no way related to a case under active investigation or adjudication.

E. The investigation and recommended action or report should be completed within 60 days following the date of the Board's written referral for investigation. If the Board's Administrator and/or CIO shows good cause, the Board may extend the time for investigation for a reasonable time not to exceed an additional 60-day period.

F. The Board will not authorize a delay in notice to the involved social worker or an extension of time for concluding an investigation if this action would be inconsistent with the limitations set out in LSA-R.S. 37:21. The Board shall schedule hearings and provide notice of hearings consistent with those statutory limitations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:308 (February 2000).

§707. Disposition of Investigation

A. The Board may, before, during, or following an investigation, or after the filing of an administrative

complaint, dispose of any complaint informally through correspondence or conference with the social worker and/or the complainant. This action may occur whether requested by the involved social worker or recommended by the CIO, or at any time as deemed appropriate by the Board. Such informal resolution may take the form of any informal disposition recognized in LSA-R.S. 49:955(D) or any other form of agreement which adequately addresses the complaint or the matter under investigation. Such agreement is binding upon the involved social worker and the Board. When an informal disposition occurs after an administrative complaint is filed with the Board, the agreement requires the concurrence of the assistant attorney general handling the case. This concurrence further requires a certification by the assistant attorney general that the social worker's conduct as specified in the informal disposition documents is consistent with the known evidence which could be presented at an adjudication hearing.

B. Any attempt by the Board to resolve a complaint by informal disposition which does not result in a disposition of the complaint or matter under investigation, will in no way preclude further investigation of that matter or complaint. The participation in any such attempt by the Board or any of its members will in no way disqualify the Board or any of its members from serving on an adjudication hearing panel dealing with an administrative complaint on the same subject matter as the attempted informal resolution. The Board and the hearing panel is authorized to obtain waivers related to their participation in informal disposition procedures signed by the involved social worker and the social worker's legal counsel, if any, prior to its participation in such informal procedures.

C. At the conclusion of the investigation, the Board's Administrator will receive a written report from the CIO and/or the Board's administrative staff. The written report shall provide a summary of the complaint or basis for the investigation, a general statement of the evidence relating to the investigation and the investigator's determination and recommendation. If the report contains a recommendation that the complaint be dismissed due to a lack of evidence, inadequate legal cause for the filing of an administrative complaint, or for any other reason, the Administrator promptly shall notify the Board chairperson who will, on a rotating basis, designate a Board member to review the complaint, the complete investigative materials of the CIO or the Board's administrative staff, and any investigative reports and recommendations. This review shall include an assessment of the quality and thoroughness of the investigation and the legal and/or factual basis for the recommended dismissal. The reviewing Board member shall promptly report to the Board his or her assessment of the investigation and the basis for the recommended dismissal. Unless the complaint is the subject of an informal disposition as specified in Subpart A. of this Rule, no complaint may be dismissed without Board member review of the investigation and a vote of the Board on the recommendation of the investigator's report. The Board may accept the recommendation of the report and dismiss the complaint or may refer the matter back to the Board's administrator for further investigation as it deems necessary. In the event the Board votes to dismiss the complaint, both the involved social worker and the complainant will be

notified in writing concerning the Board's action. Notwithstanding Rule 705. D., no Board member will be disqualified from serving on a hearing panel on a complaint merely because the Board member was designated to review the complaint or participated in a vote related to the recommendation of the dismissal of any complaint.

D. If the investigation report contains a determination that there is probable cause to believe that the involved social worker has engaged or is engaging in conduct, acts, or omissions constituting legal cause under the law, these rules and regulations, or ethical standards for any form of disciplinary action as specified in LSA-R.S. 37:2717, then the Administrator shall promptly notify the attorney general or the assistant attorney general assigned to prosecute such matters on behalf of the state pursuant to LSA-R.S. 37:2717(C). The notice shall deliver to the assistant attorney general all investigative reports, statements, notes, recordings, court records, and other data obtained in the course of the investigation. It will also request the preparation of a draft of an administrative complaint regarding any violations which are disclosed in or suggested by the investigation. The assistant attorney general prosecuting the matter may request and obtain other information from the Board's Administrator, including access to consultants to assess the results of the investigation and prepare a draft of the administrative complaint. The draft of the administrative complaint shall identify the involved social worker and be prepared in the same form and content as the administrative complaint specified in Section 709(B) of these Rules. The draft of the administrative complaint shall be signed by the assistant attorney general and delivered to the Board's Administrator within 30 days of the notice and delivery to the assistant attorney general of the investigation, report and specified materials. The Board's Administrator is authorized to extend the time for the submission of the draft of the administrative complaint for a reasonable time as requested by the assistant attorney general, provided that such extensions do not foreclose action on the complaint or the scheduling of a hearing due to the limitations contained in LSA-R.S. 37:21.

E. Upon receiving a signed draft of the administrative complaint, the Administrator shall mail a copy of the draft complaint together with a notice letter to the involved social worker. The letter will advise of the intent to file the administrative complaint and give the social worker a reasonable opportunity pursuant to LSA-R.S. 49:961(C) to show compliance with all legal requirements of the social worker's license, or to show that the complaint is unfounded.

F. Should the involved social worker fail to respond within the time provided (which time may be extended by the Administrator upon good cause shown), or if the social worker's response does not satisfactorily demonstrate that the social worker is in lawful compliance or that the complaint is unfounded; the Administrator shall in consultation with the assistant attorney general prepare an original complaint in the form of the draft complaint for filing with the Board. In determining the adequacy of any response submitted by the social worker, the Administrator should consult with the assistant attorney general. The Administrator may also consult with its general legal counsel (also referred to in these procedural rules as

independent counsel) on any legal issues relating to the response submitted by the social worker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:309 (February 2000).

§709. Administrative Complaint Procedure

A. An original of the administrative complaint shall be signed and approved by the assistant attorney general and delivered to the Board's Administrator prior to being filed with the Board. The Board's Administrator shall place the administrative complaint on the Board agenda for the next scheduled meeting of the Board. When the Board receives the administrative complaint, the Board will docket the complaint under its designated numbering system and schedule a hearing.

B. The administrative complaint shall identify the involved social worker and any license, provisional license, certificate or registration number. In separately numbered paragraphs, the complaint shall concisely state the material facts and the matters alleged to be proven, including the facts giving rise to the Board's jurisdiction over the respondent social worker, the facts constituting legal cause for the complaint against the respondent under law (including the specification of the Practice Act, the Administrative Procedure Act, the Board's Rules, Standards, and Procedures, or any other statutory law alleged to have been violated by the respondent social worker). The complaint shall request an administrative sanction or relief which the assistant attorney general seeks in the name of the state of Louisiana. It shall bear the name, address and telephone number of the assistant attorney general.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:310 (February 2000).

§711. Notice of Administrative Complaint and Hearing Scheduling

A. Upon the docketing of the administrative complaint, the Board should schedule the complaint for a hearing before a hearing panel of the Board. This hearing shall take place not less than 30 days nor more than 150 days of the docketing of the complaint, provided that the time for the hearing may be lengthened as the Board deems necessary or appropriate, or upon good cause shown by motion of the attorney general or respondent. Any requests for extension of time to schedule the hearing beyond 150 days after docketing shall be considered the filing of a procedural motion under LSA-R.S. 37:21(A)(5).

B. If the Board finds that public health, safety, or welfare imperatively requires emergency action and incorporates a finding to that effect in its order, the Board may enter an order of summary suspension of the respondent social worker's license pending proceedings for revocation or other action in accordance with LSA-R.S. 49:961(C). In that event, the scheduled hearing on the summary suspension shall be noticed and scheduled not more than 45 days after the order of such summary suspension. Scheduling may extend beyond the 45 day period if requested by the involved social worker.

C. The respondent social worker will be served written notice of the administrative complaint; the time, date, and place of the scheduled hearing; and a copy of the Board's Rules, Standards, and Procedures by registered, return-receipt-requested mail, as well as by regular first class mail. The notice will be sent to the most current address for the respondent social worker as reflected in the official records of the Board. The notice shall include a statement of the legal authority and jurisdiction under which the hearing is to be held and shall be accompanied by a certified copy of the administrative complaint. If the hearing panel of the Board has been designated at the time of the notice, the notice shall contain the names of the panel members.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:310 (February 2000).

§713. Response to Complaint, Notice of Representation

A. Within 15 days of service of the complaint (or such longer time as the Board may permit, on motion of the respondent social worker, hereafter called **Respondent**), the respondent may answer the complaint, admitting or denying each of the separate allegations of fact or law. The respondent may offer any explanation or assert whatever defense(s) are applicable. Any matters admitted by respondent shall be deemed proven and established for purposes of adjudication. In the event that respondent does not file a response to the complaint, all matters asserted in the complaint shall be deemed denied.

B. In any adjudication proceeding before the Board, respondent may be represented by an attorney at law duly admitted to practice in this State. Respondent who is represented by legal counsel shall personally or through such counsel give written notice to the Board of the name, address and telephone number of the attorney. Following the Board's receipt of proper notice of representation, all further notices, complaints, subpoenas, orders, or other process related to the proceedings shall be served on respondent through his or her designated counsel of record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:311 (February 2000).

§715. Pleadings; Motions and Service

A. All pleadings, motions, and other papers permitted or required to be filed with the Board in a pending adjudication shall be filed by personal delivery at or by mail to the Board office. Concurrent service by mail or personal delivery shall be filed with the assistant attorney general, if filed by or on behalf of the respondent, or upon respondent or respondent's counsel of record (if any), if filed by the assistant attorney general.

B. All pleadings, motions, discovery, or other papers shall be submitted on plain white letter-size (8 1/2" x 11") bond, with margins of at least 1" on all sides. The text shall be double-spaced, except for quotations and other matter customarily single-spaced. Submitted materials shall bear the caption and docket number of the case as it appears on the complaint, and shall include a certificate of the attorney or person making the filing that service of a copy of the

materials has been effected in the same manner by regular mail or by personal delivery.

C. The Board may refuse to accept for filing any pleading, motion or other paper not conforming to the requirements of this section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:311 (February 2000).

§717. Pre-Hearing Motions

A. Pre-hearing motions, including a motion to dismiss, shall be filed not less than 30 days following the service of the complaint on the respondent or 15 days prior to the hearing, whichever is earlier. Each pre-hearing motion shall be accompanied by a memorandum which sets forth a concise statement of the grounds upon which the relief sought is based and the legal authority therefor. A motion may be accompanied by an affidavit(s) as necessary to present or support factual content of the motion. Within 10 days of the filing of any such motion and memorandum or such shorter time as the Board may order, the party opposing the motion (whether the opposing party is the assistant attorney general or the respondent or respondent's counsel), may file a memorandum which may be supported by affidavit(s) in opposition to or setting forth the opposing party's position on the motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:311 (February 2000).

§719. Motions for Continuance of Hearing

A. A motion for continuance of hearing shall be filed within the delay prescribed by Rule 317 of these Rules, provided that the Board may accept the filing of a motion for a continuance at any time prior to hearing upon a showing of good cause not discoverable within the time otherwise provided for the filing of pre-hearing motions.

B. A scheduled hearing may be continued by the Board only upon a showing by respondent or the assistant attorney general that there are substantial legitimate grounds that the hearing should be continued. These grounds must balance the respondent's right to a reasonable opportunity to prepare and present a defense, with the complaint and the Board's responsibility to protect the public health, welfare, and safety. Except in extraordinary circumstances evidenced by verified motion or accompanying affidavit, the Board ordinarily will not grant a motion to continue a hearing that has been previously continued upon motion of the same party. The Board may, but is not required to continue a scheduled hearing, where both respondent and/or respondent's legal counsel and the assistant attorney general jointly request continuance.

C. If an initial motion for continuance is not opposed, it may be granted by the Board's Administrator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:311 (February 2000).

§721. Disposition of Pre-Hearing Motions

A. Any pre-hearing motion, other than an unopposed initial motion for continuance of hearing which may be

granted by the Administrator, shall be referred for decision to the presiding officer of the hearing panel designated for that proceeding. The presiding officer may make a ruling or, at his or her discretion, may refer any pre-hearing motion to the entire panel for disposition. Any party aggrieved by the decision of the presiding officer on a pre-hearing motion may request that the motion be reconsidered by the entire panel.

B. The presiding officer or the hearing panel shall ordinarily rule on pre-hearing motions on the papers filed, without a hearing. On written request by the respondent or the assistant attorney general, however, and on grounds satisfactory to the presiding officer of the hearing panel, the presiding officer may grant opportunity for hearing, by oral argument, on any pre-hearing motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:311 (February 2000).

§723. Rules of Evidence; Official Notice; Oaths and Affirmations; Subpoenas; Depositions and Discovery; Confidential Privileged Information; and Executive Session

A. Rules relating to evidence, notice, authority to administer oaths, issue subpoenas, conduct depositions and discovery, and the control of confidential and privileged information will be applied in adjudication proceedings before the Board as specified in LSA-R.S. 49:956, or as may be modified by LSA-R.S. 13:3715.1(J) and LSA-R.S. 44:4(25).

B. To the extent applicable, the testimonial privileges set out in the Social Work Practice Act, LSA-R.S. 37:2718 and the Louisiana Code of Evidence will apply to the hearings before the Board. By bringing a complaint against his or her social worker, the client waives the privilege of confidentiality for the purposes of the hearing.

C. The hearing panel and its designated presiding officer shall take reasonable steps to protect patient/client identity on any medical/psychotherapy records or similar records as required by LSA-R.S. 13:3715.1(J), and to the extent that any information presented at a hearing involves peer review material within the meaning of LSA-R.S. 13:3715.3. If protection of peer review material is required, the Board is authorized to conduct that portion of the hearing in executive session to preserve the confidentiality of peer review privilege materials, including information, data, reports, and records in compliance with LSA-R.S. 13:3715.3(G). The Board may also go into executive session for the limited purpose of discussing the character, professional competence, or physical or mental health of a licensee, pursuant to LSA-R.S. 42:6 and 6.1 and Op. Atty. Gen. No. 94-561, Dec. 8, 1994.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:312 (February 2000).

§725. Designation of Hearing Panel, Disqualification and Replacement

A. At the time the administrative complaint is docketed with the Board or within 30 days thereafter, the Board chairperson will designate five members of the Board (one

of whom may, but is not required to be, the Board chairperson) to serve as the hearing panel for that complaint. The selected Board panel members shall elect from the membership a person to serve as presiding officer. The presiding officer at the hearing may make rulings on objections and the admissibility of evidence, and will insure that the conduct of the hearing proceeds without delay and pursuant to law. The other panel members may not delegate any of their decision-making or fact-finding duties to the presiding officer, nor shall the presiding officer have any greater weight in the decision-making process.

B. In the event that a board member is disqualified or recused from a complaint or hearing the board should immediately contact the Governor to appoint a board member pro tem to replace the disqualified member for the complaint or hearing in progress only.

C. Any panel member having reason to believe that he or she is biased or prejudiced either for or against one of the parties to the proceeding, or who has a personal interest in the outcome, shall immediately notify the remaining Board members and request to be disqualified. Likewise, any party to such a hearing or a compliance hearing as provided in Rule 743, may file with the Board a motion supported by an affidavit requesting disqualification because of bias, prejudice or personal interest. Motion for disqualification shall be filed with the Board and the opposing party within 15 days following the notice of the composition of the hearing panel. Absent good cause shown, motions for disqualification filed more than 15 days following such notice will not be considered. As soon as possible, but not later than 10 calendar days preceding the beginning of the hearing, the majority of the hearing panel will consider the merits of the disqualification request and any opposition to that request filed by the opposing party. The concerned Board member shall not participate in the action to disqualify and shall not vote on that issue. If the Board hearing panel determines there is no merit to the request for disqualification, the Board will proceed with the hearing before the designated panel. However, any doubt as to the merits of the request for disqualification should be resolved in favor of disqualification, and the Board chairperson shall immediately appoint one of the remaining Board members as the replacement to the hearing panel.

D. Ordinarily, the composition of a hearing panel is five members of the Board. However, in the event that the respondent social worker and the assistant attorney general agree to a hearing panel of three Board members, the chairperson may designate three of the five designated panel members to serve as the hearing panel. Any stipulation regarding a three-Board-member hearing panel must be in writing and signed by the respondent and/or respondent's attorney and the attorney general. Such stipulation further provides that the three member hearing panel may completely adjudicate all issues specified in the complaint, render findings of fact, conclusions of law, decision and sanction, and that no appeal of any decision or sanction will be based on a challenge to the Board's jurisdiction to adjudicate the matter with a three member hearing panel. Any such stipulation to a three-member hearing panel shall be delivered to the Board at least 15 days prior to the scheduled hearing. The written stipulation shall be filed in the adjudication record and shall constitute a waiver of the

application of and the need to comply with LSA-R.S. 49:957.

E. At least one member of the hearing panel including the panel members of a compliance hearing specified under Rule 734 shall have the same social work credential as the respondent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:312 (February 2000).

§727. Board's Independent Legal Counsel

A. The Board may designate its general counsel to serve as independent counsel relating to complaints and adjudication and compliance hearings.

B. The Board's independent counsel may provide the Board, any hearing panel member, or the Board's Administrator with advice on the issues of legal sufficiency, notice, procedural and substantive due process of law (constitutional, statutory and rules), interpretations relating to any complaint, or the investigation or adjudication thereof. Such independent counsel may not participate in the investigation or prosecution of any case pending before the Board or Board hearing panel.

C. The Board's independent counsel may also provide other services relative to the complaint or adjudication which the Board or the hearing panel deems necessary, except as may be expressly limited by these rules, standards, and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:313 (February 2000).

§729. Pre-Hearing Conference

A. In any case of adjudication noticed and docketed for a hearing before the Board, the respondent and/or respondent's legal counsel and the assistant attorney general may agree, or the Board chairperson or the presiding officer of the hearing panel may require, that a pre-hearing conference be held among such counsel or together with the Board's independent legal counsel. This conference will be held for the purpose of simplifying the issues for the hearing, and promoting stipulations as to facts and proposed evidentiary offerings which will not be disputed at the hearing.

B. If the parties and/or their legal counsel reside in different cities within the state, or if for other reasons it is inconvenient for parties to appear in person at a pre-hearing conference, the conference may be conducted by telephone.

C. Following the pre-hearing conference, the parties shall (and without such conference the parties may) agree in writing on a pre-hearing order which should include:

1. a brief statement by the assistant attorney general about what such counsel expects the evidence presented against the respondent to show;

2. a brief statement by respondent as to what the evidence and arguments in defense are expected to show;

3. a list of witnesses to be called by the assistant attorney general and/or respondent, together with a brief general statement of the nature of the testimony each witness is expected to give;

4. any stipulations which the parties may be able to agree upon concerning undisputed claims, facts, testimony, documents or issues; and

5. an estimate of the time required for the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:313 (February 2000).

§731. Consolidation of Cases

A. The Board shall have the discretion to consolidate one or more cases for hearing when they involve the same or related parties, or substantially the same questions of law or of fact. The Board may also grant separate hearings if a joint hearing would be prejudicial to one or more of the parties. If hearings are to be consolidated, notice must be given to all parties in advance of the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:313 (February 2000).

§733. Conduct of Hearing; Record

A. Adjudication hearings are generally conducted in open session, except where closed or executive session is specifically authorized by law, as identified in these rules.

B. At the adjudication hearing, the assistant attorney general and the respondent and respondent's counsel shall be afforded the opportunity to present evidence on all issues of fact and argument on all issues of law and policy involved. They will also have opportunity to call, examine, and cross-examine witnesses, and to offer and introduce documentary evidence and exhibits as may be required for a full and true disclosure of the facts and disposition of the complaint.

C. The Board through its Administrator shall arrange for a certified court reporter/stenographer who shall be retained by the Board to prepare a written transcript of the proceedings.

D. During the hearing, the presiding officer of the hearing panel shall rule upon all evidentiary objections and other procedural questions, but in his or her discretion may consult with the entire hearing panel in executive session. The independent counsel may assist the presiding officer and the hearing panel, either in open session or executive session, in ruling on evidentiary objections and other procedural issues raised during the hearing.

E. The record in an adjudication shall include the items specified in LSA-R.S. 37:2717 and LSA-R.S. 49:955. The record shall also contain the administrative complaint, the notice of hearing, the respondent's response to the complaint (if any), copies of subpoenas issued in connection with the case or the hearing of the adjudication, as well as all pleadings, motions and intermediate rulings.

F. The order of presentation in adjudication proceedings, unless the parties stipulate otherwise and the hearing panel approves, is first the presentation of evidence by the assistant attorney general, the presentation of evidence by the respondent, rebuttal by the assistant attorney general (if any). Rebuttal should be directed to issues raised by the evidence and defenses presented by respondent's case. Should the hearing panel determine, in the interest of fairness, that respondent be provided a limited opportunity to

present additional evidence following rebuttal, the panel may so order.

G. Hearing panel members may direct questions to any witness at any time during the hearing process. Should questions posed by the hearing panel members suggest the need for additional direct examination, cross-examination or redirect examination by either party, the hearing panel will allow such additional examination as it deems appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:313 (February 2000).

§735. Evidence; Burden of Proof

A. In an adjudication hearing, the Board or the designated Board hearing panel may give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent people in the conduct of their affairs. To the extent applicable or not subject to exception, effect will be given to the rules of privilege recognized by law. The panel may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interest of the parties will not be prejudiced, any part of the evidence may be received in written form.

B. Any records and documents in the Board's possession which either party desires the Board to consider may be offered and made a part of the record. Such materials may be received into the record in the form of copies or excerpts and shall be available for the respondent's legal counsel to examine before being received into evidence.

C. To the extent not prohibited by law, the hearing panel will honor and receive written stipulations arrived at between the parties as a proven fact at the hearing. The hearing panel, as appropriate, will also accept verbal stipulations arrived at between the parties during the hearing as proven fact, provided both parties and/or their respective legal counsel acknowledge the factual content of the stipulation on the record. The hearing panel may use stipulations as well as other evidence in arriving at any decision.

D. The hearing panel may take notice of judicially cognizable facts and of generally recognized technical or scientific facts within the hearing panel's social work or clinical social work knowledge. The parties shall be notified either before or during the hearing of any material noticed or sought by any party to be noticed. All parties will be afforded an opportunity to contest any materials so noticed. The hearing panel may draw upon its knowledge of social work, social work methodology, and clinical social work methods in evaluating any evidence presented.

E. The presiding officer at the hearing shall have the power to administer oaths or affirmations to all witnesses appearing to give testimony. The presiding officer shall regulate the course of the hearing, set the time and place of continued hearings, fix the time for the filing of briefs and other documents (if any are required or requested), and may direct the parties to appear and confer to consider simplifying issues.

F. In adjudication hearings before the Board or any Board hearing panel, the Louisiana Code of Evidence may

be used as a reference by the panel for admissibility of evidence and other evidentiary issues. The provisions of the Code of Evidence relating to hearsay are not strictly applicable to adjudication hearings.

G. At an adjudication hearing, the burden of proof rests with the attorney general or the assistant presenting the evidence before the hearing panel. No sanction shall be imposed or order issued except upon consideration of the entire record as supported by and in accordance with reliable, probative and substantial evidence. The burden of proof related to any issue is a preponderance of evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:314 (February 2000).

§737. Decisions; Notice

A. Following the presentation of evidence and any arguments, submission of briefs or written memorandum (if requested by the hearing panel), the hearing panel shall deliberate and reach its findings of fact and conclusions of law as soon as practicable after the hearing concludes. The hearing panel shall render its decision in writing within 60 days of the last hearing date, unless the hearing panel extends time for submission of any post-hearing briefs, memoranda or suggested findings of fact and conclusions of law.

B. The hearing panel's findings of fact and conclusions of law, including any sanction if applicable, shall be signed by the presiding officer of the hearing panel on behalf of and in the name of the Board. In any decision in which the hearing panel's decision was not unanimous, those hearing panel members deciding with the majority shall also sign the decision. Any panel member disagreeing with the findings of fact and conclusions of law or sanction should note his/her dissent on the decision and may record thereon any reasons for his/her dissent.

C. A certified copy of the final decision shall be served promptly upon respondent's counsel of record, or on respondent personally in the absence of counsel, and on the assistant attorney general in the same manner of service prescribed for the service of complaints.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:314 (February 2000).

§739. Rehearings

A. A decision by the Board or a Board hearing panel in the case of adjudication shall be subject to rehearing, reopening, or reconsideration by the Board as provided for in LSA R.S. 49:959, provided the Board receives such a request at its office within 10 days of the entry of the Board's final decision. If the Board receives such a written request by mail after 10 days of the entry of its final decision, the request will be considered timely if the request is post-marked within the 10-day-period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:314 (February 2000).

§741. Miscellaneous Rules

A. Social workers have a continuing obligation to keep the Board informed about their current addresses. Accordingly, if notice of an investigation, service of an administrative complaint, or notice of a hearing cannot be delivered by mail or by personal delivery, the Board shall make reasonable efforts to contact the social worker and obtain the social worker's new address. If, after the Board makes reasonable efforts to locate the social worker, notice or service cannot be made because the social worker cannot be located, then the Board or any designated hearing panel is authorized to proceed with the investigation, complaint procedure, and adjudication of the complaint, notwithstanding the social worker's absence, lack of participation in the process, or failure to appear.

B. If the social worker receives due notice of an adjudication hearing and fails to appear and participate, and does not notify the Board of good cause for the social worker's absence, the Board and its designated hearing panel may proceed with the adjudication notwithstanding the social worker's absence.

C. If a social worker is unable to attend an adjudication hearing because the social worker is incarcerated as the result of the conviction of any criminal conduct recognized as a felony under either State or Federal law, or is under federal detention subject to a removal or deportation order, the Board and its designated hearing panel may proceed with the adjudication hearing after providing the incarcerated or detained social worker reasonable opportunity to participate in the hearing. That participation may be through legal counsel authorized to practice in this state, participation by telephone at the social worker's expense, and the opportunity to present evidence through deposition, affidavit, or such other reasonable means as the Board and/or the hearing panel deems fair and appropriate.

D. Social workers who are subject to an investigation and/or are named as a respondent in an administrative complaint filed with the Board are entitled to defend themselves with or without the benefit of legal counsel. If a social worker chooses not to defend and instead surrenders his/her license, certificate, provisional certificate, or registration at any time during an investigation, complaint or adjudication hearing, but prior to the hearing panel's decision thereon, the Board will deem such surrender as an attempt to avoid the disciplinary process. The Board will then subject the involved social worker to the revocation of the license, certificate, provisional certificate, or registration, or impose other sanction or disposition which the Board deems appropriate, based on the information available to the Board. Such Board action may also impose restrictions on any subsequent application to the Board which the involved social worker may make. Such restrictions may include restricting the social worker from making subsequent application for as much as five years following the surrender or resignation by the social worker. The Board is also authorized to report in its newsletter a summary of the circumstances surrounding the social worker's surrender or resignation of license, certificate, or registration while under investigation or subject to an administrative complaint.

E. The Board shall have authority to delegate to the CIO or the Board Administrator the investigation of any alleged violations of LSA-R.S. 37:2720 or prior to bringing any

injunctive proceedings under LSA-R.S. 37:2721. Following the Board's review of any investigation conducted thereon, the Board shall contact the appropriate district attorney or bring injunctive proceedings through the attorney general, or both. Final authority for appropriate action rests solely with the Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:315 (February 2000).

§743. Compliance Hearing

A. Any applicant whose application is rejected may seek a compliance hearing as provided for in LSA-R.S. 37:2710, provided that the request for such compliance hearing is submitted to the Board in writing within 30 days after the applicant receives notice of rejection. In the request for a compliance hearing, the applicant shall state the specific reasons for the opposition to the rejected application.

B. After receiving a request for a compliance hearing, the Board's Administrator shall contact the Board chairperson, who will designate three Board members to sit on a hearing panel for the compliance hearing. The purpose of the compliance hearing is to provide a forum for the applicant or licensee to present documentary evidence through affidavits, court records, official records, letters, etc., along with under-oath testimony to establish that the applicant in fact meets the lawful requirements for the application or for the retention or renewal of the license, certificate, provisional certificate, or registration. The hearing panel shall elect from its membership one Board member to serve as the presiding officer. The presiding officer shall administer oaths, maintain order at the hearing, fix new hearing dates as required, and rule on other matters relating to the hearing. A record of the hearing will be maintained by the Board's Administrator, although a court reporter or stenographer is not required. The applicant may be represented by counsel or may represent himself/herself. If the applicant requests a court reporter, a court reporter may be provided at the applicant's expense.

C. In any compliance hearing, the burden shall be on the applicant to establish that he or she meets the criteria for the application renewal or retention of license or that the renewal was timely.

D. An applicant whose license, certificate, provisional certificate, or registration is deemed lapsed under LSA-R.S. 37:2714 may request a compliance hearing provided the applicant requests the hearing in writing within 10 days after receiving the notice of the lapsed license, certificate, provisional certificate, or registration. In the event that the applicant did not receive such notice, then the applicant must request a compliance hearing within 30 days of the date upon which the license, certificate, provisional certificate, or registration would have lapsed by operation of law.

E. Whenever possible, the compliance hearing shall be conducted within 30 days after the Board receives the request for the compliance hearing. In the event that the Board is unable to schedule a compliance hearing within 30 days of the request, the Board may schedule the hearing at its next regularly scheduled Board meeting.

F. At the compliance hearing, the hearing panel may consult with its general counsel (independent counsel) on any legal issues emerging from the evidence submitted.

Within 15 days after the compliance hearing concludes, the hearing panel will render its final decision, including findings of fact and conclusions of law. The decision will be delivered by registered mail, return receipt requested, to the applicant requesting the compliance hearing. In the event that the hearing panel's decision is adverse to the applicant, the applicant may apply for rehearing before the entire Board by submitting a written request within ten days as provided in LSA-R.S. 49:959, subject to further judicial review pursuant to LSA-R.S. 49:964, 965. Any rehearing before the Board will be conducted on the record made before the hearing panel, including the hearing panel's findings of fact, conclusions of law, and recommendations. To the extent practicable, the rehearing will be held at the next regularly scheduled Board meeting. The Board will review the findings of fact and conclusions of law of the hearing panel and the evidence and exhibits as submitted, as well as any written submissions or assignments of error. Unless requested by the Board, oral presentations or arguments will not be permitted on rehearing. The Board will render its decision on rehearing within 30 days of its hearing the matter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:315 (February 2000).

§745. Declaratory Ruling

A. Any person or entity deemed to be governed by or under the jurisdiction of LSA-R.S. 37:2701-2723 may apply to the Board for a declaratory order or ruling in order to determine the applicability of any of the above statutory provisions or any of the rules of this Board. The Board shall issue the declaratory order or ruling in connection with the request by majority vote of the Board, signed and mailed to the requesting party within thirty days of the request. However, the Board may seek legal counsel or an attorney general's opinion in connection with the request for such a declaratory ruling, in which case the Board's decision on that ruling or order may be issued within sixty days of the request. Any judicial review of the validity or applicability of any of these rules shall be in conformity with LSA-R.S. 49:963.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:316 (February 2000).

Dorinda N. Noble, Ph.D., BCSW
Chair

0002#132

RULE

**Department of Health and Hospitals
Board of Examiners of Nursing Facility Administrators**

**Registration of Licenses and Certificates
(LAC 46:XLIX.1103)**

Editor's Note: This rule is being repromulgated to correct a codification error.

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators has amended the rules pertaining to annual registration and registration fees. The board finds it necessary to amend this rule to provide for annual registration periods and new registration fees in order to ensure continued protection of public health and continued compliance with Federal rules and regulations regarding Medicaid/Medicare.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part XLIX. Board of Examiners of Nursing Facility
Administrators**

Chapter 11. Licenses

§1103. Registration of Licenses and Certificates

A.1. Every person who holds a valid license as a nursing home administrator issued by the board shall immediately upon issuance thereof be deemed registered with the board and issued a certificate of registration. Thereafter, such individual shall annually apply to the board for a new certificate of registration and report any facts required by the board on forms provided for such purpose.

A.2. - 3. ...

B.1. Upon making an application for a new certificate of registration such licensee shall pay an annual registration fee of \$245 and, at the same time, shall submit evidence satisfactory to the board that, during the annual period immediately preceding such application for registration, they have attended a continuing education program or course of study as provided in Chapter 9 of these rules and regulations. A copy of the certificate(s) of attendance for 15 hours of approved continuing education shall be attached to the annual re-registration application.

2. A licensed nursing home administrator no longer practicing in Louisiana may place his license in an inactive status. He shall continue to register his license annually but is exempt from continuing education requirements. Should a licensee wish to reactivate their license they shall undergo 60 days of on-site re-orientation under supervision of a board-approved preceptor, unless such person has been actively practicing in another state and meets Louisiana continuing education requirements.

C. - G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended and promulgated LR 9:461 (July 1983), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators LR 18:181 (February 1992), amended LR 25:1627 (September 1999), repromulgated LR 26:82 (January 2000), LR 26:316 (February 2000).

Kemp Wright
Executive Director

0002#118

RULE

Department of Health and Hospitals Board of Veterinary Medicine

Certified Animal Euthanasia Technicians
(LAC 46:LXXXV.704 and Chapter 12)

The Louisiana Board of Veterinary Medicine hereby amends LAC 46:LXXXV.704, 1200, 1201, 1205, 1207-1227 and repeals 1204 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, La. R.S. 37:1518 et seq. The amendments to the rules are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 7. Veterinary Practice

§704. Consulting and Providing Legend and Certain Controlled Substances

A. ...

B. Telazol (Tiletamine HCL and Zolazepam HCL) and Ketamine (Ketamine HCL)

1. When an animal control agency which is operated by a state or local governmental agency or which is operated by any duly incorporated humane society which has a contract with a local government agency to perform animal control services on behalf of the local governmental agency seeks to administer the controlled substance Telazol (tiletamine HCL and zolazepam HCL) or Ketamine (ketamine HCL), to an animal for the sole purpose of animal capture and/or animal restraint, the animal control agency, unless it has a Lead CAET as defined in R.S. 37:1552(4), must have a staff or consulting veterinarian who is licensed to practice veterinary medicine by the Board of Veterinary Medicine and who is registered with the Drug Enforcement Administration (DEA) and licensed by the state controlled dangerous substances program at the shelter location where the drugs will be stored and administered who obtains, and who is responsible for, the Telazol (tiletamine HCL and zolazepam HCL) or Ketamine (ketamine HCL) used.

B.2. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 20:666

(June 1994); amended LR 24:334 (February 1998), LR 25:519 (March 1999), LR 26:317 (February 2000).

Chapter 12. Certified Animal Euthanasia Technicians

All definitions used in this Chapter shall have the meaning assigned to them in La. R.S. 37:1552. In addition, the following definitions shall be applied:

Board the Louisiana Board of Veterinary Medicine.

Certified Animal Euthanasia Technician a person who is instructed in a board-approved program in the proper methods of humanely euthanizing animals by injecting legal drugs in accordance with rules adopted by the board, in proper security precautions, in proper record keeping, and related skills, and who has been issued a certificate by the board.

Full Certification means a certificate of approval granted to an applicant who has fulfilled all requirements of this chapter. Such certificates shall expire annually.

Lead Certified Animal Euthanasia Technician or Lead CAET a CAET who also meets the requirements of La. R.S. 1552(4).

Temporary Certification a certificate of approval granted to an applicant who has satisfied the requirements of this Chapter for the issuance of a temporary certificate, but who has not fulfilled the requirements of this Chapter for full certification. Such certificates shall expire 30 days after the next available board-approved course in animal euthanasia has been held unless the temporary certificate is otherwise extended by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 26:317 (February 2000).

§1201. Applications for Certificates of Approval

A. Pursuant to La. R.S. 37:1553, applicants shall submit the following items to the board:

1. a completed application form approved by the board, which shall be sworn to and subscribed before a Louisiana notary public;
2. a current passport type photograph of the applicant;
3. an official copy of a birth certificate or a notarized copy of a current driver's license as proof of age;
4. an official transcript of the applicant's high school records or photocopy of the applicant's high school diploma or GED or an official transcript indicating attendance at an institution of higher learning;
5. certified scores on any previous examinations in animal euthanasia and/or proof of successful completion of a Board-approved course in animal euthanasia within a three-year period;
6. certification by the applicant that he has never been convicted, pled guilty or pled nolo contendere to either a felony or misdemeanor, other than a minor traffic violation. In the event that the applicant is unable to so certify, the Board shall require the applicant to explain in full and/or provide further documentation;
7. certification that the applicant has never had certification as a certified animal euthanasia technician revoked, suspended, or denied. In the event that the applicant is unable to so certify, the Board shall require the applicant to explain in full and/or provide further documentation;

8. a list of all professional certificates or licenses that the applicant currently holds and/or has held;

9. two letters of reference on Board-approved forms from licensed veterinarians or other professional persons associated with animal control administration who can attest to the applicant's professional character and ethical standards;

10. a release waiver form to authorize a background check regarding the applicant's history with dangerous and/or controlled substances to be performed by the Drug Enforcement Administration or other law enforcement agency at the Board's request. A photostatic copy of the applicant's authorization is accepted with the same authorization as the original. The background check must be successfully passed, which means that the Drug Enforcement Administration or other law enforcement agency has indicated to the board that the applicant has no previous criminal convictions involving dangerous and/or controlled substances;

11. certification by the applicant that he has not violated or been subject to any of the grounds for denial of a certificate of approval as listed in La. R.S. 37:1554;

12. unless otherwise already in possession of the board, evidence that the applicant has successfully completed a board-approved program in animal euthanasia, which shall include instruction in the proper methods of humanely euthanizing animals by injecting legal drugs in accordance with rules adopted by the board, in proper security precautions, in proper record keeping, and related skills identified by the board.

B. The Board may reject any applications which do not contain full and complete answers and/or information as requested and may reject any application if any information furnished in the application is fabricated, false, misleading, or incorrect.

C. The Board shall reject the application of an applicant who has practiced veterinary medicine, veterinary technology, or euthanasia technology with sodium pentobarbital in this state without a license, temporary permit, exception, or certificate of approval during the two-year period immediately prior to the date of application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 23:963 (August 1997), LR 26:317 (February 2000).

§1205. Passing Scores

A. A passing score on any written and/or oral portions of the examination shall be deemed to be the correct answering of seventy percent of the questions contained on that portion of the examination.

B. A passing grade on the practical portion of the examination will be determined by the successful completion of a series of hands-on demonstrations which indicate that the applicant has been properly trained in procedures which will enable him to safely and effectively perform humane euthanasia with sodium pentobarbital.

C. Applicants who fail to achieve a passing score on any portion of the examination, either written or practical, will not be eligible for a certificate of approval nor may they apply for a temporary certificate of approval.

D. Appeals concerning the examination must be made in writing to the Board within 30 days of the administration of the examination. All such formal appeals will be reviewed at the next available meeting of the Board. The Board may call witnesses and/or hold public hearings as it deems necessary although it is not required to do so unless otherwise specified by statute. The decision of the Board regarding such appeals is final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 26:318 (February 2000).

§1207. Certificates Without Examination

The Board shall not issue full certificates of approval without examination under any circumstances, except as provided in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 26:318 (February 2000).

§1209. Temporary Certificate of Approval

A. The Board may issue a temporary certificate of approval when an applicant meets all of the following requirements:

1. - 2. ...

3. Applicant has submitted a release waiver form to authorize a background check regarding the applicant's history with dangerous and/or controlled substances to be performed by the Drug Enforcement Administration or other law enforcement agency at the Board's request. A photostatic copy of the applicant's authorization is accepted with the same authorization as the original. The background check must be successfully passed, which means that the Drug Enforcement Administration or other law enforcement agency has indicated to the board that the applicant has no previous criminal convictions involving dangerous and/or controlled substances;

A.4. - F. ...

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 26:318 (February 2000).

§1211. Fees

A. The Board hereby adopts and establishes the following fees for CAET program:

Application fee	\$25
Course Fee	\$80
Annual renewal of certificate	\$50
Examination fee	\$50
Late renewal fee	\$25
Original fee full certification	\$50
Temporary certification fee	\$50

B. Renewals received after the expiration date as provided in La. R.S. 37:1546, shall be charged a late renewal fee.

C. The Board may direct that examination fees be assigned or remitted directly to the agency selected to prepare, administer, and score the examination in animal

euthanasia. Said agency may not assess fees in addition to those set by the Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 26:318 (February 2000).

§1213. Renewal of Certificates

A. All certificates of approval shall expire annually at midnight September 30. Certificates shall be renewed by completing a re-registration form which shall be provided by the Board and by payment of the annual renewal fee established by the Board.

B. Each year, ninety days prior to the expiration date of the license, the Board shall mail a notice to each certified animal euthanasia technician stating the date his certificate will expire and providing a form for re-registration.

C. The certificate of approval will be renewed for any person who complies with the requirements of this chapter.

D. Re-registration forms for renewal of certificates of approval, complete with payment of fee and any other documents required by this chapter, shall be postmarked no later than the expiration date of the license each year. Re-registration forms postmarked after midnight of the expiration date will be subject to a late renewal fee as established by the Board. This fee is in addition to the regular fee for annual renewal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 23:1685 (December 1997), LR 26:319 (February 2000).

§1215. Expired Certificate

A. A certified animal euthanasia technician whose certificate has expired may be reinstated within one year of its expiration by making written application for renewal, paying the current renewal fee plus all delinquent renewal fees and late fees, and meeting the continuing education requirements prescribed by the board.

B. A CAET who fails to renew a certificate of approval within one year of its expiration must reapply for a new certificate. A certificate of approval shall not be issued without the approval of a majority of the quorum of the board.

C. The identifying number of an expired certificate of approval shall not be issued to any person other than the original holder of that number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 26:319 (February 2000).

§1217. Revoked Certificate

A. A person whose certificate of approval has been revoked pursuant to La. R.S. 37:1554 must reapply for a new certificate.

B. A person whose certificate of approval has been revoked pursuant to La. R.S. 37:1554 shall not be issued a new certificate unless approved by a majority of the quorum of the board.

C. The identifying number of a revoked certificate of approval shall not be issued to any person other than the original holder of that number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 26:319 (February 2000).

§1219. Appeals and Review

A. Any applicant for a certificate of approval desiring to review his examination and/or the master answer sheet and/or the examination questions shall make arrangements with the board, its agent, designee or any other person, firm, corporation, or entity charged with the preparation, grading and/or administration of the course for such review.

B. Persons Aggrieved by a Decision of the Board

1. Any certified animal euthanasia technician aggrieved by a decision of the board, other than a holder of a certificate of approval against whom disciplinary proceedings have been brought pursuant to R.S. 37:1551 et seq. may, within 30 days of notification of the board's action or decision, petition the board for a review of the board's actions.

2. A petition shall be in the form of a letter, signed by the person aggrieved, and mailed to the board at its principal office.

3. Upon receipt of such petition, the board may proceed to take such action as it deems expedient or hold such hearings as may be necessary, and may review such testimony and/or documents and/or records as it deems necessary to dispose of the matter, but the board shall not, in any event, be required to conduct any hearings or investigations, or consider any offerings, testimony, or evidence unless so required by statute or other rules or regulations of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 26:319 (February 2000).

§1221. Disciplinary Proceedings

Any CAET against whom disciplinary proceedings have been instituted and against whom disciplinary action has been taken by the board pursuant to R.S. 37:1551 et seq. and/or the board's rules, shall have rights of review and/or rehearing and/or appeal in accordance with the terms and provisions of the Administrative Procedure Act and §1401 et seq. of the board's rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 26:319 (February 2000).

§1223. Maintenance and Security of Sodium Pentobarbital

A. Storage. All sodium pentobarbital shall be stored either in a securely locked cabinet which is of substantial construction or in a safe or in a locked metal cabinet. The cabinet, safe or locker shall be locked at all times. The CAET(s) shall have the responsibility for the safe-keeping of the keys and/or combination to the cabinet, safe, or locker.

B. Usage Log

1. A usage log shall be maintained to account for the use of each cubic centimeter (cc) or parts thereof of sodium pentobarbital. The log shall include:

a. the date of usage;

- b. the lot number and bottle number used;
- c. the amount (in cc's) of usage;
- d. the tag number or other identification number for the animal;
- e. the name of the person who drew the sodium pentobarbital;
- f. any amount of drug wasted, spilled, or lost; and
- g. the name of a witness to the waste, spillage, or loss of sodium pentobarbital.

2. The usage log shall be maintained on a standardized form provided by the Board or its designated agent. Copies of the log so provided may be made by the shelter.

3. Usage logs shall be made available to any official of the Drug Enforcement Administration without prior notification.

C. Inventory

1. A perpetual inventory of all sodium pentobarbital shall be maintained. An initial inventory must be conducted when a CAET first obtains a DEA registration and/or Louisiana Controlled Dangerous Substances License. A physical inventory shall be conducted every three months.

2. The inventory shall indicate the amount of sodium pentobarbital ordered, the amount presently on hand, the amount used for euthanasia, the amount lost due to spillage or waste, the amount lost due to the drug's expiration, and the time of day the inventory was taken.

3. The inventory shall be made and signed by the certified animal euthanasia technician(s) or licensed veterinarian who is the registrant of the Drug Enforcement Administration.

4. Upon written request from either the Louisiana Board of Veterinary Medicine or the Department of Health and Hospitals, the certified animal euthanasia technician shall provide a copy of the inventory records.

5. Inventory logs shall be made available to any official of the Drug Enforcement Administration without prior notification.

6. The inventory log shall be maintained on a standardized form provided by the Board or its designee. Copies of the form so provided may be made by the shelter.

D. Orders, Destruction, and Thefts

1. Placing Orders. All sodium pentobarbital must be purchased by way of a DEA 222 order form. Alterations and scratch-outs are not allowed on this form. If a mistake is made on the form, "void" must be written on the form and the form must be maintained in the file.

2. Receiving Orders. The date and amounts received must be logged in on the order form.

3. Returns of Sodium Pentobarbital to Suppliers. If sodium pentobarbital must be returned to a supplier or transferred to another person possessing a DEA registration and Louisiana Controlled Dangerous Substances License, the supplier or person to whom the drugs are transferred must complete a DEA 222 order form. Both the person returning or transferring the sodium pentobarbital and the recipient must maintain a copy of the DEA 222 form.

4. Destruction of Sodium Pentobarbital. Sodium pentobarbital shall not be destroyed without the prior approval of the U.S. Drug Enforcement Administration. Any destruction approved must be witnessed by a law enforcement officer.

5. Any theft of sodium pentobarbital must be reported to the local police, U.S. Drug Enforcement Administration, and the Louisiana Controlled Dangerous Substances Program.

E. Record Retention. All controlled substances records, including, but not limited to, inventory documents, usage logs, order forms, reports of theft or destruction of controlled substances, must be maintained for a minimum of five years plus the current calendar year.

F. Leaving Employment. A CAET registered with the U.S. Drug Enforcement Administration who leaves employment at a registration site must return his DEA registration any unused DEA order form 222s to the DEA. A CAET licensed with the Louisiana Controlled Dangerous Substances Program who leaves employment at a licensed site must return his license to the Louisiana Controlled Dangerous Substances Program.

G. Changing Site Address. It is the responsibility of the CAET registered with the U.S. Drug Enforcement Administration or licensed by the Louisiana Controlled Dangerous Substances Program to inform in writing either or both of those agencies if the address of the site at which he is registered or licensed changes. The written notification must include the name of the CAET, his registration or license number, the current address of the site, the pending new address of the site, the site name, and the signature of the CAET. Written notification must be submitted to the Drug Enforcement Administration and/or Louisiana Controlled Dangerous Substances Program prior to the relocation of the site.

H. Failure of a CAET to comply with any and all provisions of this Section shall be considered a violation of the rules of professional conduct within the meaning of La. R.S. 37:1554(A)(12).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 26:319 (February 2000).

§1225. Responsibilities of a Lead CAET

A. Designation

1. Pursuant to R.S. 37:1552(4), a person seeking designation as a Lead CAET must submit the following to the board:

- a. a completed application form approved by the board which shall be sworn to and notarized before a Louisiana notary public;
- b. a copy of his current Louisiana state controlled dangerous substances license;
- c. a copy of his current registration with the U.S. Drug Enforcement Administration;
- d. documentation from the sponsor of a board-approved chemical capture training course that
 - i. he has completed the chemical capture training course; or
 - ii. until December 31, 2000, if a designee applicant completed a chemical capture training course prior to August 1, 2000, he may submit documentation of such completion along with information concerning the content of the course to the board; the board may approve the course and accept it as sufficient to meet the requirements of R.S. 37:1552(4)(c).

B. Legal Drugs. Pursuant to R.S. 37:1556.B, those controlled substances a Lead CAET may legally order and maintain for the sole purpose of restraining, capturing and euthanizing animals shall be limited to the following:

1. sodium pentobarbital at a minimum strength of six grains per milliliter;
2. tiletamine hydrochloride and Zolazepam hydrochloride; and
3. ketamine hydrochloride.

C. Providing Chemical Capture Drugs

1. A Lead CAET shall provide chemical capture drugs only to persons who have completed a board-approved training course in the use of chemical capture drugs.

2. Prior to transferring chemical capture drugs to a person who has completed a board-approved training course in the use of chemical capture drugs, a Lead CAET shall have and maintain on file documentation from the sponsor of the board-approved course that the person completed the course. Until December 31, 2000, if a person to whom the Lead CAET provides chemical capture drugs completed a chemical capture training course prior to August 1, 2000, the Lead CAET may submit documentation of such completion along with information concerning the content of the course to the board; the board may approve the course and accept it as sufficient to meet the requirements of R.S. 37:1556(B)(4).

3. Prior to ordering, maintaining, or providing any controlled substance under his own authority to another person, the lead CAET must be registered with the Drug Enforcement Administration (DEA) and licensed by the state controlled dangerous substances program at the shelter location where the drugs will be stored and administered.

4. The Lead CAET must maintain and store the controlled substances allowed for use under §1225.B in a manner which meets or exceeds the requirements of all federal or state drug enforcement agencies, including storage of controlled substances in a securely locked, substantially constructed cabinet and the keeping of a perpetual inventory as required by LAC Title 48:Chapter 39).

5. Use of controlled substances allowed under §1225.B shall be documented to include, but not limited to:

- a. date of each use of the drug;
- b. species of animal;
- c. estimated weight of animal;
- d. dose administered;
- e. name of animal control officer to whom the drug was transferred and who administered the drug;
- f. a perpetual (running) inventory of the drug present at the facility; and
- g. both the Lead CAET and person to whom the drug is transferred shall sign a drug sign-out document each time the drug is transferred for use.

6. The Lead CAET shall review each use of the controlled substances allowed under §1225.B and the Lead CAET shall initial the usage log entries to indicate this review. A review of the usage logs shall be made at least quarterly and the quantities of drug used and on hand shall be tallied and authenticated. Any variance shall be noted in the log and steps should be taken and documented to correct the problem.

7. Any removal of the controlled substances allowed under §1225.B from the securely locked, substantially constructed cabinet shall be in minimal amounts, shall be

maintained in a locked container when not in use, and shall be documented in a manner to include, but not be limited to:

- a. a signed log indicating the person removing the drug;
- b. the date on which the drug was removed;
- c. an accounting for all drug used and the amount returned;
- d. the date on which the remaining drug was returned and the signature of the person returning it.

8. This section does not pertain to any drug(s) listed in any DEA classification schedule (also known as controlled drugs) or State of Louisiana classification schedule, except those allowed under §1225.B.

D. Failure of a Lead CAET to comply with any and all provisions of §1223 and §1225 shall be considered a violation of the rules of professional conduct within the meaning of La. R.S. 37:1554(A)(12).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 26:320 (February 2000).

§1227. Continuing Education

A. Basic Requirements

1. A minimum of six (6) continuing education units is required each fiscal year (July 1 through June 30) as a prerequisite for renewal of certification. A CAET who fails to obtain a minimum of six (6) continuing education units within the prescribed twelve-month period will not meet the requirements for renewal of his certificate.

2. All continuing education programs must be approved by the board prior to attendance.

3. Proof of attendance, which shall include the name of the course, date(s) of attendance, hours attended, and specific subjects attended, shall be attached to the annual certificate renewal form. Proof of attendance must include verification from the entity providing or sponsoring the educational program.

4. All hours shall be obtained in the twelve months preceding the renewal period of the certificate.

5. Each CAET must fulfill his annual educational requirements at his own expense or through a sponsoring agency other than the board.

B. Failure to Meet Requirements

1. If a CAET fails to obtain a minimum six (6) continuing education units within the prescribed twelve-month period, his certificate shall be expired and his certificate shall remain expired until such time as the continuing education requirements have been met and documented to the satisfaction of the board.

2. The board may grant extensions of time for extenuating circumstances. The CAET must petition the board at least 30 days prior to the expiration of the certificate. The board may require whatever documentation it deems necessary to verify the circumstances necessitating the extension.

C. Approved Continuing Education Programs

1. Organizations sponsoring a continuing education program for CAETs must submit a request for approval of the program to the board no less than 75 days prior to the commencement of the program. Information to be submitted shall include:

- a. the name of the proposed program and sponsor organization;
- b. course content;
- c. the number of continuing education units to be obtained by attendees.

2. CAETs may also submit a request for approval of a continuing education program no less than 75 days prior to the commencement of the program. Information to be submitted shall comply with the requirements of §1227.C.1.

3. Continuing education units which are submitted for renewal and were not pre-approved by the board may be reviewed by the board. If units are not approved, the CAET will be required to take additional continuing education in an approved program prior to renewal of his certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 26:321 (February 2000).

Kimberly B. Barbier
Administrative Director

0002#064

RULE

Department of Health and Hospitals Board of Veterinary Medicine

Renewals (LAC 46:LXXXV.305)

The Louisiana Board of Veterinary Medicine hereby amends LAC 46:LXXXV.305 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, La. R.S. 37:1518 et seq. The amendment to the rule is set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 3. Licensure Procedures

§305. Renewals

A. Annual Renewal of License. Pursuant to LSA-R.S. 37:1524, all licenses expire annually on September 30 of each year and must be renewed by making application for renewal of license with the board and payment of the annual renewal fee. A complete application for renewal of license must be submitted to the board or the license shall be expired. For an application for renewal of license to be considered complete, the following conditions must be met:

- 1. application for renewal must be postmarked by September 30 of the year of application for renewal;
- 2. full payment of renewal fee must be submitted;
- 3. documentation of compliance with continuing education requirements in accordance with Chapter 4 of this Part must be submitted; and
- 4. if applicable, late continuing education fee must be submitted.

B. Renewal of Expired Licenses. A license which expires may be renewed within five years of the date of its expiration by submitting an application for renewal which meets the following conditions:

- 1. application for renewal must be submitted;
- 2. full payment of current renewal fee must be submitted;
- 3. full payment of delinquent annual renewal fees must be submitted;
- 4. full payment of late fees for delinquent license renewal must be submitted;
- 5. documentation of compliance with continuing education requirements, for the current year and delinquent years, in accordance with Chapter 4 of this Part must be submitted; and
- 6. if applicable, late continuing education fee must be submitted.

C. Notice

1. A person failing to renew his license shall receive one notification via certified mail, return receipt requested, which notification shall be mailed within ten days after expiration of license. Such notice will advise that any person who shall practice veterinary medicine after the expiration of his license and willfully or by neglect fails to renew such license shall be guilty of practicing in violation of LSA-R.S. 37:1514. Such notice shall also state that the board may publish the name of any person holding an expired license and that the board may distribute the name of any person holding an expired license to agencies which may include, but is not limited to, the Louisiana state controlled dangerous substances program, the United States Drug Enforcement Administration, the United States Food and Drug Administration, the United States Department of Agriculture, drug supply wholesalers, veterinary supply wholesalers, the Louisiana Board of Pharmacy, the Louisiana Board of Wholesale Drug Distributors, the Louisiana Veterinary Medical Association, and any other entity that requests or is entitled to such information.

2. Pursuant to LSA-R.S. 37:1525, after five years have elapsed since the date of expiration, a license may not be renewed. No later than 60 days prior to the end of the five-year period, the board shall mail notice via certified mail, return receipt requested, to the person holding such expired license. Such notice shall state that if the license is not renewed prior to the end of the five-year period, the license shall be permanently removed from the board's rolls and that the holder shall be required to make application for a new license.

D. It is the duty of the licensee to maintain a current address with the office of the Board of Veterinary Medicine and to notify the board's office if an annual re-registration form is not received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:343 (March 1993); amended LR 23:965 (August, 1997), LR 24:941 (May 1998), LR 26:322 (February 2000).

Kimberly B. Barbier
Administrative Director

0002#063

RULE

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

Eligibility Native American Fishing Rights

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts 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 rule is adopted in accordance with the provisions of 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 amends Section I of the Medicaid Eligibility Manual governing countable income and resources by adopting the provisions of P.L. 100-647, which requires that the income of Native Americans derived from the exercise of recognized fishing rights be considered as unearned income in the determination of Medicaid eligibility.

David W. Hood
Secretary

0002#086

RULE

Department of Insurance Office of the Commissioner

Fraud Assessment (LAC 37:XI.Chapter 23)

Under the authority of Louisiana Revised Statutes (La. R.S.) Title 40, Section 1428 and the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Insurance hereby adopts Rule 13, to become effective February 20, 2000. This intended action complies with the statutory law administered by the Department of Insurance.

Title 37

INSURANCE

Part XI. Rules

Chapter 23. Rule 13. Special Assessment to Pay the Cost of Investigation, Enforcement, and Prosecution of Insurance Fraud

§2301. Purposes

A. The purpose of this rule is to implement the provisions of R.S. 40:1428 by assessing a fee on insurers to pay the cost of investigation, enforcement, and prosecution of insurance fraud in this state as more fully described in R.S. 40:1421-1429 and this rule. This rule shall be effective February 20, 2000.

B. The fees collected shall be used solely for the purposes of Subpart B of Part III of Chapter 6 of Title 40 of the Louisiana Revised Statutes of 1950, comprised of R.S. 40:1421 through 1429, entitled "Insurance Fraud Investigation Unit".

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 40:1428.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:323 (February 2000).

§2303. Fee Assessment

A. As authorized by R.S. 40:1428, and subject to the limitations provided therein and in this rule, there is hereby assessed an annual fee not to exceed .000375 multiplied times the direct premiums received by each insurer licensed by the Department of Insurance to conduct business in this state.

B. The fee shall be assessed for that portion of the 1999-2000 fiscal year, ending June 30, 2000, which follows the effective date of this rule, and on July 1, 2000, and each fiscal year thereafter, and shall be based on premiums received in the previous calendar year. The Commissioner of Insurance will notify insurers in writing of the fee assessment owed each fiscal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 40:1428.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:323 (February 2000).

§2305. Limitations on the Fee Assessment

The fee shall not be assessed on premiums received on life insurance policies, annuities, credit insurance, reinsurance contracts, reinsurance agreements, or reinsurance claims transactions. The fee shall not be assessed on fifty percent of the premiums received on health and accident insurance policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 40:1428.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:323 (February 2000).

§2307. Allocation of the Fee Assessment

A. The fees shall be allocated as follows:

1. Seventy-five percent of the fees collected shall be allocated to the Insurance Fraud Investigation Unit within the Office of State Police.

2. Fifteen percent of the fees collected shall be allocated to the Department of Justice to be used solely for the Insurance Fraud Support Unit.

3. Ten percent of the fees collected shall be allocated to the Department of Insurance to be used solely for the Section of Insurance Fraud.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 40:1428.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:323 (February 2000).

§2309. Payment of the Fee Assessment

The fee established in R.S. 40:1428 and in this rule shall be paid to the Commissioner of Insurance as required by R.S. 40:1428(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 40:1428.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:323 (February 2000).

§2311. Sunset

This rule shall be null, void, and unenforceable on July 1, 2004 in accordance with the sunset provision of R.S. 40:1429, unless legislative authorization for this rule is reenacted prior to July 1, 2004. If such legislation

authorization is reenacted prior to July 1, 2004, then this Rule shall continue in full force in effect without need for a reenactment, amendment, or re-promulgation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, R.S. 40:1428 and R.S. 40:1429.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:323 (February 2000).

James H. "Jim" Brown
Commissioner

0002#053

RULE

Department of Insurance Office of the Commissioner

Regulation 68~~l~~ Patient Rights Under Health Insurance Coverage in Louisiana (LAC 37:XIII.Chapter 91)

In accordance with the provisions of LSA-R.S. 49:953 of the Administrative Procedure Act, LSA-R.S. 22:3, R.S. 22:2014, and R.S. 22:2021(C), the Department of Insurance is adopting the following regulation regarding the rights of patients with health insurance coverage in Louisiana. This regulation is necessary to establish reasonable requirements for health insurance coverage that assures compliance with state statutory requirements under Title 22 of the Louisiana Revised Statutes of 1950. More specifically, this regulation is necessary to implement and enforce the following provisions: LSA-R.S. 22:2(G), 22:4, 22:215.9, 22:215.11, 22:215.13, 22:215.17 22:215.18, 22:215.19 22:2004, 22:2005, 22:2013, 22:2016 22:2018, 22:2020, 22:2021 and 22:2022. This rule is effective upon publication.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 91. Regulation 68~~l~~ Patient Rights Under Health Insurance Coverage in Louisiana

§9101. Purpose

A. The purpose of this regulation is to clarify the rights of insureds and requirements for health insurance coverage approved under Title 22 of the Louisiana Revised Statutes of 1950. Title 22 of the Louisiana Revised Statutes of 1950 establishes the statutory requirements that health insurance coverage must meet to be issued for delivery in Louisiana. The statutory requirements also establish the intent of the legislature to afford patients with health insurance coverage, basic rights to access covered benefits without undue delays or denials based on arbitrary determinations of medical necessity. The statutory requirements also establish the legislative intent to prohibit the use of a health insurance coverage requirement or procedure that impinges on the ability of the insured patient to receive appropriate medical advice and/or treatment from a health care provider.

B. To carry out the intent of the legislature and assure full compliance with the provisions of applicable statutory requirements, this regulation sets forth the patient rights under health insurance coverage policies or plans issued for delivery in this state.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 22:3 and R.S. 22:2014

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:324 (February 2000).

§9103. Definitions

Emergency Medical Condition~~l~~ means the sudden and, unexpected onset of a health condition that requires immediate medical attention, where failure to provide such medical attention could reasonably be expected to result in death, permanent disability, serious impairment to bodily functions, serious dysfunction of a bodily organ or part, or could place the person's health in serious jeopardy.

Formal Managed Care Plan~~l~~ basic health coverage provided by a Health Maintenance Organization licensed to operate in Louisiana. The term does not include health insurance coverage that does not meet the same quality standards that are applied to Health Maintenance Organizations. The term does not apply to any health insurance coverage or employer benefit plan that advertises or markets coverage as "managed care" but is not required to comply with the statutory consumer protections required of formal managed care plans operated by Health Maintenance Organizations in Louisiana.

Geographic Area~~l~~ a Parish.

Health Care Professional~~l~~ a physician duly licensed to practice medicine by the Louisiana State Board of Medical Examiners, or other health care professional duly licensed, certified, or registered as appropriate in Louisiana, or an acute care hospital licensed to provide medical care in this state.

Health Insurance Coverage~~l~~ means benefits consisting of medical care, provided directly, through insurance or reimbursement, or otherwise and including items and services paid for as medical care, under any hospital or medical service policy or certificate, hospital or medical service plan contract, preferred provider organization, or health maintenance organization contract. This term shall not mean limited benefit insurance as defined in LSA-R.S. 22:6(2)(b)(i) or any short term health insurance exempt from guaranteed renewal by PL 102-191, the Health Insurance Portability and Accountability Act of 1996.

Incentive Arrangement~~l~~ any payment or contractual obligation included in a general payment plan, capitation contract, shared risk arrangement, or other agreement between a managed care organization and a health care provider that is tied to utilization of covered benefits.

Managed Care Plan~~l~~ has the same meaning as set forth under LSA-R.S. 22:215.18A(3) and (4). This includes health insurance policies and health maintenance organization coverage. The term does not include supplemental insurance or limited benefit coverage for out of pocket expenses that is exempt from being classified as creditable coverage under Part of Part VI-C of Chapter 1 of Title 22 of the Louisiana Revised Statutes of 1950.

Service Area~~l~~ the geographic area or areas of the state served by a managed care plan.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 22:3 and R.S. 22:2014

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:324 (February 2000).

§9105. Applicability and Scope

Except as otherwise specifically provided, the requirements of this regulation apply to all health insurance

coverage issued for delivery in the state of Louisiana that is otherwise subject to the statutory requirements of Part VI-C of Chapter 1 of Title 22 of the Louisiana Revised Statutes of 1950.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 22:3 and R.S. 22:2014

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:324 (February 2000).

§9107. Patient Rights Under Policies or Plans of Health Insurance Coverage

A. Prohibition on the Use of Gag Clauses~~§~~ Applies to HMO Coverage. Patients have a right to talk freely with health care professionals about their health, medical conditions, and any treatment options that are available, including those not covered by their health plan. LSA-R.S. 22:215.18(B) prohibits a managed care plan from adopting any requirement that interferes with the ability of a health care professional to communicate with a patient regarding his or her health care. This statutory protection also includes communications regarding treatment options and medical alternatives, or other coverage arrangements. The managed care plan is only allowed to prohibit a health care professional from soliciting alternative coverage arrangements for the purpose of securing financial gain by the health care professional.

B. Prohibition on Incentives to Restrict, Delay or Deny Medically Necessary Care~~§~~ Applies to HMO and Major Medical Insurance Coverage. Patients have a right to receive medically necessary and appropriate services covered under a managed care plan. LSA-R.S. 22:215.19 prohibits managed care plans from offering any financial incentives to health care professionals to deny, reduce, limit, or delay specific, medically necessary, and appropriate services.

C. Holding Managed Care Plans Liable for their Actions, Omissions, or Activities~~§~~ Applies to HMO and Major Medical Insurance Coverage. Managed care plans are responsible for their actions, activities or omissions that result in harm to the patient. LSA-R.S. 22:215.18(G) prohibits managed care plans from transferring their liability related to activities, actions or omissions of the plan to a health care professional treating the insured. This right does not relieve health care professionals of their responsibilities to appropriately practice within the scope of license, certification, or registration.

D. Guaranteed Direct Access to Obstetricians/Gynecologists~~§~~ Applies to HMO and Major Medical Insurance Coverage. Women have a right to see an Obstetrician or Gynecologist for routine care. LSA-R.S. 22:215.17 requires health insurance coverage to include direct access to these health care professionals without prior authorization. In addition, health insurance coverage is required to include up to two annual routine visits and follow up treatment within sixty days of either visit if a related condition is diagnosed or treated during the visits. This requirement also applies to pregnancy related care if covered by the policy or plan.

E. Requirement for Appropriate Access to Covered Medical Services~~§~~ Applies to HMO Coverage

1. Formal managed care plans operated by health maintenance organizations are required to maintain an adequate number of health care professionals to serve plan participants. Covered services must be provided within a

reasonable period of time once ordered or prescribed. LSA-R.S. 22:2004, 2005, 2013, 2016, and 2021 establish requirements for HMO plans to document that their networks of primary care physicians and specialists are adequate. HMOs are allowed to use point of service options to expand networks and assure access to plan participants.

2. Other health insurance coverage is only allowed to offer managed care as a coverage option. These plans must offer traditional payment of medical claims based on the terms of the policy for deductibles and co-insurance.

F. Confidentiality of Medical Records~~§~~ Applies to HMO Coverage

1. Any data or information pertaining to the diagnosis, treatment, or health of any enrollee or potential enrollee obtained from such persons or from any provider by any formal managed care plan shall be held in confidence and shall not be disclosed to any person except:

a. to the extent that it may be necessary to carry out the purposes of operating a formal managed care plan as permitted by law;

b. upon the express consent of the enrollee or potential enrollee;

c. pursuant to statute or court order for the production of evidence or the discovery thereof;

d. in the event of a claim or litigation between such person and the formal managed care plan wherein such data or information is pertinent.

2. A formal managed care plan shall be entitled to claim any statutory privileges against such disclosure which the provider who furnished such information to the formal managed care plan is entitled.

G. Prohibit Unreasonable Denial of Emergency Care~~§~~ Applies to HMO and Major Medical Insurance Coverage

1. Any managed care plan that includes emergency medical services shall provide coverage and shall subsequently pay health care professionals for emergency medical services provided to a covered patient who presents himself/herself with an emergency medical condition.

2. No health insurance plan shall retrospectively deny or reduce payment to health care professionals for emergency medical services of a covered patient even if it is determined that the emergency medical condition initially presented is later identified through screening not to be an actual emergency, except in the following cases:

a. material misrepresentation, fraud, omission, or clerical error;

b. any payment reductions due to applicable co-payments, co-insurance, or deductibles that may be the responsibility of the covered patient;

c. cases in which the covered patient does not meet the emergency medical condition definition, unless the covered patient has been referred to the emergency department by the insured's primary care physician or other agent acting on behalf of the health insurance plan.

H. Appeal/Grievance Procedures for Denials of Coverage~~§~~ Applies to HMO and Major Medical Insurance Coverage

1. Formal managed care plans operated by health maintenance organizations are required to have an administrative appeal or grievance process for patients. LSA-R.S. 22:2022 requires these plans to submit their

appeal/grievance procedures to the Department of Insurance to verify the process or procedures used are reasonable and meet the intent of the statute.

2. In addition, where any insured patient is denied benefits under a health insurance coverage plan, a request can be made to the Department of Insurance for investigation of the denial. Where the denial is valid, the insured is so notified. Where the denial is erroneous, the health insurance coverage plan is required to institute corrective action and may be subject to fines and penalties if a statutory violation has occurred.

I. Guaranteed Continuation Of Group Insurance Applies To HMO and Major Medical Insurance Coverage

1. LSA-R.S. 22:215.13 guarantees Louisiana residents who lose their eligibility for coverage under a group health insurance policy or plan, the right to maintain such coverage in force for up to 12 months. This guaranteed continuation of group health insurance does not include accident only coverage, specific disease coverage, limited benefit coverage for dental, vision care or any benefits provided in addition to the basic hospital, surgical, or major medical benefits of the policy. This means that additional or optional insurance coverage purchased is not guaranteed to be provided during this 12-month continuation period. This continuation of group coverage right is guaranteed for up to one year so long as the following conditions are met:

- a. the individual is not eligible for any other group health coverage plan or government sponsored health plan, such as Medicare and Medicaid;
- b. the individual timely pays the full monthly premium to keep coverage in force;
- c. the individual was not terminated from coverage for fraud or failure to pay any required contribution for the group insurance, and continues to meet the group policy's terms and conditions other than membership in that original group;
- d. all dependents covered under the group policy or plan continue to be covered;
- e. the group policy has not been terminated or the employer has withdrawn participation in a multiple employer group policy; and
- f. the individual continues to reside within the service area of the plan in the event that such group coverage is provided by a Health Maintenance Organization.

2. This right is not automatic and requires the employee or member who is losing coverage to make a written election of continuation on a form furnished by the group policyholder and pay for the first month's coverage prior to the date that coverage is being terminated. Written notification of termination must be provided to the individual in advance to allow election of this right.

3. Special continuation rights are provided to a surviving spouse of an individual who was covered by a group health insurance policy or plan at the time of death and is age 55 or older. Under Louisiana law the surviving spouse is guaranteed the right to continue such group coverage in effect until eligible for any other group coverage. The surviving spouse is also allowed to provide coverage to all dependents that were covered under the deceased spouse's policy or plan at the time of death so long as they remain eligible under the policy.

J. Guaranteed Renewal of Health Insurance Coverage Applies to HMO and Major Medical Insurance Coverage

1. Under Louisiana law, once health insurance coverage has been purchased, the insurer cannot cancel the coverage unless one of the following conditions exists:

- a. failure to pay premiums or contributions in accordance with the terms of the policy;
- b. failure to comply with a material plan provision relating to employer contribution or group participation rules;
- c. performance of an act or practice that constitutes fraud or the intentional misrepresentation of a material fact under the terms of coverage;
- d. the policyholder no longer resides, lives, or works in the service area in the event the coverage is provided under a formal managed care plan operated by a Health Maintenance Organization;
- e. the policyholder's coverage is purchased through a bona-fide association plan and the policyholder is no longer eligible to participate in such association;
- f. the insurance company is no longer offering the type of coverage purchased and offers to replace the policy with any other type of similar coverage being marketed within 90 days of renewal; or
- g. the insurance company is leaving the market and will no longer be selling any group and/or individual health insurance products in Louisiana for a period of at least five years. In such instances the insurer must give each policyholder 180 days advance notice in writing before the policy is terminated. All termination notices must be filed and approved by the Department of Insurance prior to issuance.

K. Limits on Preexisting Medical Condition Exclusions from Coverage Applies To HMO and Major Medical Insurance Coverage. Under Louisiana law, a health insurance plan is allowed to exclude medical conditions from coverage for a limited period of time. All policies now being sold are prohibited from excluding coverage for preexisting medical conditions for more than 12 months. Regardless of the type of coverage (group or individual), health plans are not allowed to apply an exclusion of coverage based on a preexisting medical condition for more than 12 months.

1. Group Coverage. The medical conditions that can be excluded from coverage are limited to those that were diagnosed or treated during the six month period prior to the day coverage begins under the policy. Any condition that was not being treated during the prior six months cannot be excluded from coverage.

2. Individual Coverage. The medical conditions that can be excluded from coverage are limited to those that were diagnosed, treated or reasonably should have been treated during the twelve month period prior to the day coverage begins under the policy. Any condition that was not diagnosed, treated, or reasonably should have been treated during the prior twelve months cannot be excluded from coverage.

L. Guaranteed Portability Protections Applies to HMO and Major Medical Insurance Coverage

1. Individuals who are moving their health coverage from one employment situation to another or from one group

plan to another are guaranteed the following rights provided they have enrolled in the new plan within 63 days of termination from the prior plan:

a. if the new plan imposes a 12-month preexisting exclusionary period, the individual must be given one month's credit for each month of continuous coverage under the prior plan. If the individual had 12 or more months of continuous coverage under the prior plan, the preexisting exclusionary period has been satisfied. If the individual had 6 months of continuous coverage under the prior plan, the preexisting exclusionary period is reduced by 6 months;

b. if the new employer imposes an exclusionary or waiting period for employees before coverage can begin, such periods do not count as a break in coverage for applying portability rights;

c. during any exclusionary or waiting period, no premiums can be charged to the individual;

d. during any exclusionary or waiting period the individual may maintain their prior coverage if eligible under state continuation of coverage rights, federal COBRA rights, or through purchase of an individual policy;

e. individuals, who had at least 18 months of prior coverage under a group plan, have exhausted or are not eligible for state continuation rights or COBRA rights, are guaranteed access to individual health insurance coverage through the Louisiana Health Insurance Association.

2. Any Louisiana resident who has individual health insurance coverage is guaranteed credit for prior individual coverage when replacing coverage if the insurance plan is applying the prior insurance policy's lifetime benefit usage against the replacement policy. Residents can waive credit for prior coverage to avoid any reduction in the lifetime benefit limit of the replacement coverage. However, state law no longer allows the sale of any policy of insurance that excludes coverage in excess of 18 months.

M. Prohibiting Discrimination Against Individuals Based on Health Status; Applies to HMO and Major Medical Insurance Coverage

1. State and federal law prohibit any group health coverage plan from discriminating against individuals based on their health status. This means that an individual's medical status cannot be used to determine eligibility to join a group health plan with certain exceptions. Plans are specifically prohibited from adopting any rules for eligibility or continued eligibility based on any of the following health status related factors:

- a. health status;
- b. medical condition, including both physical and mental illness;
- c. claims experience;
- d. receipt of health care;
- e. medical history;
- f. genetic information;
- g. evidence of insurability, including conditions arising out of acts of domestic violence; and
- h. disability.

2. A plan's rules for eligibility to enroll under a plan also include rules defining any applicable waiting periods for such enrollment. This means that the plan may only apply exclusionary or waiting period uniformly based on date of hire for all eligible employees. No exclusionary or

waiting periods are allowed after coverage begins and premiums are being collected from the insured.

N. Prohibition on Use of Prenatal and Genetic Tests by Health Insurance Plans; Applies to HMO and Major Medical Insurance Coverage. State law prohibits health insurance plans from requiring any individual to take genetic tests or prenatal tests prior to being offered coverage. Plans are also prohibited from requesting release of any genetic or prenatal test results or using such information in the determination of benefits or rates for an insured.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 22:3 and R.S. 22:2014.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:325 (February 2000).

§9109. Patient Responsibilities

Under Louisiana law, formal managed care plans operated by health maintenance organizations are held to a higher standard than other health insurance coverage plans that include managed care options. All materials provided by a health insurance coverage plan should be carefully reviewed prior to making a purchasing decision. Managed care requirements under each health insurance coverage plan may vary significantly. For this reason, all patient requirements should be carefully reviewed to assure there is no misunderstanding regarding how medical coverage will be provided.

AUTHORITY NOTE: Promulgated in accordance with LSA-R.S. 22:3 and R.S. 22:2014.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:327 (February 2000).

James H. "Jim" Brown
Commissioner

0002#028

RULE

Department of Labor Plumbing Board

Fees (LAC 46:LV.309)

The State Plumbing Board ("Board"), pursuant to La. 37:1366 (A) and (D) and 1377, has amended Plumbing Regulation, LAC 46:LV.309, in accordance with the Administrative Procedure Act. The amended rule notifies the public of the board's intent to increase certain fees and charges relative to journeyman plumbers; master plumbers; medical gas piping installers; water supply protection specialists, and establishes a fee structure for medical gas and vacuum systems verifiers, as authorized by Act 1020 of the 1999 Regular Session.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LV. Plumbers

Chapter 3. Licenses

§309. Fees

A. The fees and charges of the board relative to journeyman plumbers shall be as follows:

Special examinations	\$500
Examinations	\$125
Illiterate examinations	\$150
Initial license fee (This fee to be paid after applicant has successfully passed the exam, in order to receive his first license)	\$ 40
Renewal fee	\$ 40
Revival fee	\$ 15
If renewed after March 31	\$ 30
Temporary permits	\$ 75
Administrative charges for processing application (to be retained by the board should applicant withdraw his application before taking the examination)	\$ 62.50
Fee for N.S.F. or returned check	\$ 20
Special enforcement fee imposed under §305.H	\$500

B. - D. ...

E. The fees and charges of the board relative to medical gas and vacuum systems verifier shall be as follows:

1. Application fee	\$200
2. Renewal fee	\$200
3. Revival fee	\$ 65
If renewed after March 31	\$130

AUTHORITY NOTE: Adopted in accordance with R.S. 37:1377 and R.S. 37:1366.

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, promulgated as amended LR 7:588 (November 1981), amended LR 15:1089 (December 1986), amended by the Department of Employment and Training, Plumbing Board, LR 16:1088 (January 1990), amended LR 17:53 (January 1991), amended by the Department of Labor, Plumbing Board, LR 19:898 (July 1993), LR 19:1594 (December 1993), LR 21:1594 (December 1995), LR 26:327 (February 2000).

Don Traylor
Executive Director

0002#055

RULE

Department of Labor Plumbing Board

Integrity of Examination (LAC 46:LV.311)

The State Plumbing Board ("Board"), pursuant to La. 37:1366(A) and (D) and 1377, has amended Plumbing Regulation LAC 46:LV.311.A and added LV.311.B in accordance with the Administrative Procedure Act. The amended rule restates the board's authority to discipline an applicant for a board license for violating examination security procedures and to extend that authority to examinations conducted by authorized third-party organizations, including those organizations certifiable under related proposed rules authorized by Act 1020 of the 1999 Regular Session.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS Part LV. Plumbers

Chapter 3. Licenses

§311. Integrity of Examination

A. The board may reject an examination for any license or endorsement under this chapter, if the board determines that the applicant completed any portion of any such examination with the assistance of any other person or unauthorized written materials secreted into the examination site. Examinees will be allowed to utilize board approved resource or industry code materials or permitted by authorized third-party examiners. Examinees determined to have violated the prohibitions of this section shall be notified in writing and, upon request by the examinee or at the direction of the executive director, an informal conference before the executive director or committee appointed by the Board will be conducted. An affected examinee may appeal the determination reached in the informal conference by filing a written appeal with the Board. Such appeal hearings shall comport with the provisions of R.S. 49:955(B). Based on the evidence adduced at any such hearing, the board may impose sanctions upon the examinee with respect to any subsequently administered examination and related licensing.

B. The board is empowered to act upon reports of violation of §311.A by examinees received from private or public organizations recognized as examiners under §§304.H, 306.F, 310.F or 312.B and impose sanctions as described in §311.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Promulgated by the Department of Labor, Plumbing Board, LR 24:1948 (October 1998), amended LR 26:328 (February 2000).

Don Traylor
Executive Director

0002#056

RULE

Department of Labor Plumbing Board

Medical Gas and Vacuum Systems Verifiers (LAC 46:LV.101, 303, 307, 312, 313, 801 and 901)

The State Plumbing Board ("Board"), pursuant to La. 37:1366(A) and (D) and 1377, has amended Plumbing Regulations LAC 46:LV.101, 303, 304, 307, 801, and 901 and added Plumbing Regulations LAC 46:LV.312 and 313 in accordance with the Administrative Procedure Act. The amended rules provide licensing requirements and procedures relative to medical gas and vacuum systems verification, a specialized aspect of medical gas systems which is now subject to the Board's jurisdiction by Act 1020 of the 1999 Regular Session.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LV. Plumbers

Chapter 1. Introductory Information

§101. Definitions

* * *

Medical Gas and Vacuum System Verification the work or business of testing and verifying medical gas pipeline installations and systems. Medical gas pipeline systems include vacuum piping. The medical gas pipeline systems subject to this definition include facilities and laboratories within the scope of Standard for HealthCare Facilities (ANSI) NFPA 99, latest edition. It shall include a person's ability to understand and apply NFPA99, as well as all standards listed in Section 1.4 of the Professional Qualifications Standard for Medical Gas Systems Installers, Inspectors and Verifiers, ASSE Series 6000, Standard 6030, and to properly document findings to be kept as a permanent record for review the Louisiana State Fire Marshal or other governmental agencies with compliance and enforcement authority.

Medical Gas and Vacuum Systems Verifier a natural person who possesses the necessary qualifications and knowledge to test and verify the operation of medical gas and vacuum pipeline systems, subject to the professional qualification standards established by the American Society of Sanitary Engineers (ASSE) Series 6000, Standard No. 6030 (latest edition), and who is licensed as such by the board.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, promulgated as amended by Department of Employment and Training, Plumbing Board LR 17:48 (January 1991), amended by the Department of Labor, Plumbing Board, LR 21:1348 (December 1995), amended LR 26:329 (February 2000).

Chapter 3. Licenses

§303. Application for License

A. - E. ...

F. An application for medical gas and vacuum systems verifiers license shall be completed and sworn to before a notary public by the applicant. The applicant must submit proof that he has successfully completed a course of training and related certification testing described in §312.B of these regulations by an organization certified by the board pursuant to R.S. 37:1368(I). The applicant must furnish whatever information relevant to his experience that is requested in the application form or specifically requested by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, promulgated as amended by the Department of Employment and Training, Plumbing Board, LR 17:50 (January 1991), amended by Department of Labor, Plumbing Board, LR 21:1348 (December 1995), LR 26:329 (February 2000).

§307. Renewals

A. All plumbing, medical gas piping installer licenses, medical gas and vacuum systems verifier licenses, as well as water supply protection endorsements, expire December 31 of each year. Applications for renewal will be mailed out by

the end of October. The issuance of renewals will commence November 1 of each year. The term "renewal application" as used in §307 shall refer to all licenses and endorsements issued by the board.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, promulgated LR 2:419 (December 1976), amended LR 7:588 (November 1981), amended by Department of Employment and Training, Plumbing Board, LR 17:53 (January 1991), LR 18:30 (January 1992), amended by the Department of Labor, Plumbing Board, LR 21:1348 (December 1995), LR 26:329 (February 2000).

§312. Medical Gas and Vacuum Systems Verifier

A. No natural person shall engage in the work of a medical gas and vacuum systems verifier unless he possesses a license or renewal thereof issued by this board. The board shall issue a medical and vacuum systems verifier license to any person who:

1. qualifies under the board's regulations;
2. desires to engage in the work or business of a medical gas and vacuum systems verifier;
3. passes a written and manual examination conducted by a nationally recognized organization for this purpose; and
4. pays the fees established by the board.

B. As authorized by R.S. 37:1368(I), the board shall recognize and certify certain programs of education and training of medical gas and vacuum systems verifiers offered by private or public organizations or institutions. A natural person's satisfactory completion of any such program and related exit examination shall qualify him for licensing under §312.A of these regulations. Any such organization must satisfy the board that its program or programs meet the following criteria:

1. The program is conducted at a training facility and given to those persons that provide proof of training or experience in any aspect of the piping industry.
2. The program requires 32 hours of medical gas and vacuum systems training that meets criteria prescribed by the board and is included in the National Fire Protection Association (NFPA) 99 Gas and Vacuum Systems, latest edition, and American Society of Sanitary Engineers (ASSE), Series 6000, Standard 6030 (latest edition). Program testing must cover the following areas:
 - a. the history of medical gas piping;
 - b. application of ANSI/NFPA 99, as well as standards listed in Section 1.4 of ASSE Series 6000, Standard 6030 (latest edition), and any and all applicable laws, codes, rules, listing agencies and regulations from federal, state and local jurisdictions;
 - c. industry terminology, definitions and vocabulary;
 - d. basic concepts pertaining to absolute pressure, atmospheric pressure, gauge pressure, static pressure, dynamic (flowing) pressure, vacuum measurement, pressure and vacuum sensors, alarm panel locations, alarm setting, oxygen deficiency, all piped medical gases and patient safety;
 - e. identification of the parts and components of medical gas and vacuum systems and equipment, and their application and limitations with respect to health care facilities;

f. operating principles and performance characteristics of medical gas and vacuum pipeline systems and their components;

g. proper installation requirements for medical gas and vacuum pipelines systems relating to manufacturer recommendations, physical location, ventilation and accessibility, and local jurisdiction requirements;

h. identification of failures and the possible causes for component failure of medical gas and vacuum systems;

i. identification and description of the tests applicable to medical gas piping equipment, its physical operation, maintenance and calibration requirements;

j. identification and description of the hazards and precautions required for field testing of medical gas and vacuum piping systems;

k. test forms containing information described in ASSE Series 6000, Standard 6030 (latest edition), and its appendices;

3. The program must employ or utilize instructors who are certified as medical gas and vacuum systems verifiers by a governmental agency having jurisdiction over medical gas piping. In the absence of a governmental agency exercising such jurisdiction, the board will recognize private or public organizations who have conducted 32-hour programs of training in the field of medical gas and vacuum system verification, including written and practical examination covering all facets of ASSE Series 6000, Standard 6030 (latest edition).

C. To be eligible for board certification pursuant to R.S. 37:1368(I), an interested organization providing medical gas and vacuum systems verification training and education must complete a written application on a form or forms supplied by the board. The board shall be entitled to receive timely information on the program or programs administered by such organization and background of instructors upon request at any time. The board, acting through its representatives, may also inspect the facility and observe the actual training and education programs used or offered by such organizations. Failure to cooperate with the board and its representatives may be grounds for denial or withdrawal of board certification of any such organization. The board may investigate complaints concerning such programs. Adverse administrative action affecting an organization's application for certification or its continued status as an organization certified by the board pursuant to R.S. 37:1368(I) will be subject to the Administrative Procedure Act.

D. An applicant for a medical gas and vacuum systems verifier license must attach to his application a money order or check for the appropriate fees established in §309 of these regulations.

E. The board may accept, in lieu of an examination directly administered by the board to any applicant, the verifiable results of an examination administered by an organization certified pursuant to R.S. 37:1368(I), as evidence of successful completion of the examination necessary for the issuance of a license for medical gas and vacuum systems verifier. Any papers from such examinations must be available for inspection and the board may require notarized affidavits from the applicant and the administering organization representative attesting to the accuracy of the examination results and the scope of any

such examination, which must minimally include the subject areas described in §311B.2 of the regulations.

F. Any person, who at any time is cited by the board for working as a medical gas and vacuum systems verifier without possessing the necessary license issued by the board, shall be subject to a special enforcement fee as a precondition to any subsequent examination or licensing of any nature. The fee shall be in addition to the regular fees assessed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Promulgated by the Department of Labor, Plumbing Board, LR 26:329 (February 2000).

§313. Standards for Medical Gas and Vacuum Systems Verifiers

A. A medical gas and vacuum systems verifier shall not certify to any party the results of any tests on medical gas pipeline systems or equipment installed or repaired by any person not licensed by the board as a medical gas piping installer.

B. As a condition for licensing and renewal thereof, and subject to the disciplinary powers of the board under R.S. 37:1378(3) and (8), any person licensed by the board as a medical gas and vacuum systems verifier shall be obligated to cooperate with the Louisiana State Fire Marshall and his agents in connection with his regulation of medical gas piping installation and systems verification.

C. The duties described in §313.B include the responsibility of a medical gas and vacuum systems verifier to accurately report to the Fire Marshall prior to the Fire Marshall's inspection the following as to any gas and vacuum system subject to his verification:

1. the successful completion of pressure testing of all manufactured assemblies for both positive gases and vacuum systems, as supplied by the manufacturer of any such systems, prior to this installation;

2. satisfactory cleaning of piping and fittings from the cleaning agency in accordance with the standard "Cleaning Equipment for Oxygen Service" (CGA G-4.1);

3. documentation of each board-licensed medical gas piping installer's Braze Performance Qualification in accordance with NFPA 99 standard on Gas and Vacuum Systems, latest edition;

4. documentation of the medical gas contractor's Braze Procedure Specification and Procedure Qualification record;

5. documentation of successful completion of the board-licensed installer's required testing, including a blowdown test, initial pressure test, cross-connection test, piping purge test and standing pressure test;

6. documentation of the verifier's successful completion of required testing, including cross-connection, valve test, outlet flow test, alarm testing, piping purge test, piping purity test, final tie-in test, operational pressure test, medical gas concentration test, medical air purity test and labeling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1336(D).

HISTORICAL NOTE: Promulgated by the Department of Labor, Plumbing Board, LR 26:330 (February 2000).

Chapter 8. Preemption

§801. Preemption of Municipal or Other Local Regulatory Authorities

A. - B. ...

C. The board may enter into cooperative arrangements with the Louisiana Department of Health and Hospitals, the Louisiana State Fire Marshall or local governing authorities to aid in the enforcement of the board's regulations.

D. Nothing herein shall prohibit the board from receiving and acting under R.S. 37:1378(7) or (8) upon notices of adjudications of violations of Louisiana Department of Health and Hospitals regulations, Louisiana State Fire Marshall regulations, or local municipal or parish plumbing codes not otherwise preempted or superseded by the Plumbing Law or these regulations.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:1377 and R.S. 37:1366.

HISTORICAL NOTE: Adopted by the Department of Labor, State Plumbing Board, 1968, repromulgated as amended by Department of Employment and Training, State Plumbing Board, LR 17:55 (January 1991), amended by Department of Labor, Plumbing Board, LR 26:331 (February 2000).

Chapter 9. Revocation and Related Administration Proceedings

§901. Revocation, Suspension and Probation Procedures

A. All adjudication proceedings initiated pursuant to R.S. 37:1378 and conducted by the board shall be in accordance with the Administrative Procedure Act, R.S. 49:955 et seq. The term licensee as used in this Section, shall refer, where applicable, to the holder of a journeyman plumber, restricted journeyman plumber, master plumber, restricted master plumber, inactive master plumber, medical gas piping installer or medical gas and vacuum systems verifier license, and holder of a water supply protection specialist endorsement.

B. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, promulgated as amended by the Department of Employment and Training, Plumbing Board, LR 17:55 (January 1991), amended by Department of Labor, Plumbing Board, LR 21:1348 (December 1995), LR 26:331 (February 2000).

Don Traylor
Executive Director

0002#057

RULE

Department of Public Safety and Corrections Corrections Services

Medical Reimbursement Plan (LAC 22:I.Chapter 21)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., and in order to implement R.S. 15:831(B)(1), the Department of Public Safety and Corrections, Corrections Services, hereby adopts regulations for the medical reimbursement plan.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 21. Medical Reimbursement Plan

§2101. Policy

Policy to institute the Secretary's policy that medical co-payments must comply with the provisions of La. R.S. 15:831(B)(1).

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:831(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services LR 26:331 (February 2000).

§2103. Applicability

Applicability deputy secretary, undersecretary, assistant secretary/office of adult services, wardens of adult institutions, and administrators of adult local jail facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:831(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services LR 26:331 (February 2000).

§2105. Medical Reimbursement Plan Pursuant To R.S. 15:831(B)(1)

A. Inmates Housed in State Institutions

1. Procedures concerning medical co-payments are outlined in Department Regulation No. B-06-001. "Health Care." Please see the section entitled "Provisions of Medical and Dental Services."

2. Inmates shall file a claim with a private medical or health care insurer, (or any public medical assistance program under which the inmate is covered and from which the inmate may make a claim), for payment or reimbursement of the cost of any such medical treatment.

B. Inmates Housed in Local Jail Facilities

1. If a facility has a medical reimbursement plan for non-state inmates approved as stipulated in La. R.S. 15:705(C), then such a plan is acceptable for use in obtaining reimbursement or co-payments from state inmates in the custody of the facility for medical expenses incurred. The application of the rules in said plan shall be identical for state and non-state inmates that may be housed in the facility. The plan must contain language that stipulates that no inmate will be denied medical care because of their ability to pay co-payments or make reimbursement. No further approval by the Department of Public Safety and Corrections shall be deemed necessary.

2. The facility should require that the inmate file a claim with a private medical or health care insurer, (or any public medical assistance program under which he is covered and from which the inmate may make a claim), for payment or reimbursement of the cost of any such medical treatment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:831(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services (November 1999), LR 26:331 (February 2000).

Richard L. Stalder
Secretary

0002#122

RULE

Department of Public Safety and Corrections Corrections Services

Sex Offender Treatment Plan and Program (LAC 22:I.337)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and in order to implement R.S. 15:538(C), the Department of Public Safety and Corrections, Corrections Services hereby adopts regulations for sex offender treatment plans and programs.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 3. Adult and Juvenile Services

Subchapter A. General

§337. Sex Offender Treatment Plan and Program

A. Policy. The secretary's policy and procedures for providing a sex offender treatment plan and program as set forth pursuant to the laws of this state.

B. Applicability. Assistant secretary/Office of Adult Services, director of probation and parole, Board of Parole, all wardens of adult institutions, and local facility administrators.

C. Sex Offender Treatment Plan Pursuant to R.S. 15:538(C)

1. No sexual offender whose offense involved a minor child who is 12 years old or younger or who is convicted two or more times of a violation of the following shall be eligible for probation, parole or suspension of sentence, or diminution of sentence if imposed as a condition by the sentencing court pursuant to R.S. 15:537, unless, as a condition thereof, the offender undergoes a treatment plan based upon a mental health evaluation:

- a. R.S. 14:42 aggravated rape;
- b. R.S. 14:42.1 forcible rape;
- c. R.S. 14:43 simple rape;
- d. R.S. 14:43.1 sexual battery;
- e. R.S. 14:43.2 aggravated sexual battery;
- f. R.S. 14:43.3 oral sexual battery;
- g. R.S. 14:43.4 aggravated oral sexual battery;
- h. R.S. 14:78 incest;
- i. R.S. 14:78.1 aggravated incest; or
- j. R.S. 14:89.1 aggravated crime against nature.

2. Mental health evaluation means an examination by a qualified mental health professional with experience in treating sex offenders. Each institution and the Division of Probation and Parole shall make arrangements with qualified mental health professionals for the purpose of conducting evaluations and to develop and implement treatment plans.

3. The treatment plan shall be based upon a mental health evaluation and shall effectively deter recidivist sexual offenses by the offender, thereby reducing the risk of reincarceration of the offender and increasing the safety of the public, and under which the offender may reenter society.

4. The treatment plan may include:

a. the utilization of medroxyprogesterone acetate treatment or its chemical equivalent as a preferred method of treatment;

b. a component of defined behavioral intervention if the evaluating qualified mental health professional determines that such is appropriate for the offender.

5. The provisions of R.S. 15:538(C) shall only apply if parole, probation or suspension of sentence, or conditioned diminution of sentence is permitted by law and the offender is otherwise eligible.

6. If on probation or subject to a sentence that has been suspended, the offender shall begin medroxyprogesterone acetate, or chemical equivalent treatment as ordered by the court or a qualified mental health professional and medical staff.

7. If medroxyprogesterone acetate or chemical equivalent treatment is part of an incarcerated inmates' treatment plan, the inmate shall begin such treatment at least six weeks prior to release on parole.

8. Once a treatment plan is initiated based upon a mental health evaluation, it shall continue unless it is determined by a physician or qualified mental health professional that it is no longer necessary. The attending physician or qualified mental health professional may seek a second opinion.

9. If an offender voluntarily undergoes a permanent, surgical alternative to hormonal chemical treatment for sex offenders, he shall not be subject to these provisions.

10. Before beginning medroxyprogesterone acetate or chemical equivalent therapy, the offender shall be informed about the uses and side effects of medroxyprogesterone therapy, and shall acknowledge in writing that he has received this information (see §337.F).

11. The offender shall be responsible for the costs of the evaluation, the treatment plan, and the treatment.

a. If the offender is not indigent, these services will be rendered by an outside mental health provider based upon a fee schedule established by the Department of Public Safety and Corrections. If the offender is on probation or under parole supervision, services will be rendered at the provider's place of business. If the offender is housed in an institution, services will be rendered by the provider at the state or local facility. In either event, the Department reserves the right to determine the eligibility within the Department of Health and Hospitals.

b. Indigent offenders who are on probation or under parole supervision will be responsible for seeking services through the Department of Health and Hospitals, Office of Mental Health (with assistance as needed from their probation and parole officer). The provision of such services is strictly subject to the availability of resources and programs within the Department of Health and Hospitals. If the offender is housed in a state institution, services will be provided by Department of Public Safety and Corrections' mental health staff. A set-up fee will be charged to the inmate based upon the fee scale for non-indigent inmates and the inmate's account shall reflect the cost of the service as a debt owed. Indigent offenders housed in local facilities requiring these services should be transferred, if possible, to ARDC/WRDC. In unusual circumstances when this is not possible, services for these offenders shall be coordinated by

the facility administrator with the Department of Health and Hospitals, Office of Mental Health (with assistance, as needed, of the Office of Adult Services or the Basic Jail Guidelines Regional Team Leader.) The provision of such services is strictly subject to the availability of resources and programs within the Department of Health and Hospitals.

12. Chemical treatment shall be administered through a licensed medical practitioner. Any physician or qualified mental health professional who acts in good faith in compliance with this regulation in the administration of treatment shall be immune from civil or criminal liability for his actions in connection with the treatment. The inmate may decline to participate in the evaluation or treatment plan by signing the Consent for Medroxyprogesterone Acetate Treatment indicating that he acknowledges his decision renders him ineligible for probation, parole, suspension of sentence or diminution of sentence if conditioned by the court. However, the inmate may still fall under the provisions of R.S. 15:828 or C.Cr.P.Art. 895(J).

13. Failure to continue or complete treatment shall be grounds for revocation of probation, parole, or suspension of sentence, or, if so conditioned by the Court, revocation of release on diminution of sentence as if on parole. Good time earned may be forfeited pursuant to R.S. 15:571.4. Should an inmate in an institutional setting fail to continue or complete his sex offender treatment plan, an Incident Report shall be initiated and good time forfeited, if appropriate, pursuant to the provisions of the *Disciplinary Rules and Procedures for Adult Inmates*.

14. During the preclass verification process, it will be the responsibility of staff at ARDC/WRDC to identify those inmates whose sentence places them under the provisions of R.S. 15:538(C). It is preferable that state inmates in this category be transferred from local facilities to ARDC/WRDC. Staff at ARDC/WRDC shall be responsible for assuring the transport of these inmates to the departments custody. However, if this is not done, then the Office of Adult Services or the Basic Jail Guidelines Regional Team Leader shall assist the local facility with any questions or concerns regarding the provisions of R.S. 15:538(C). If an inmate assigned to an institution should receive a new sentence for an identified sex offense, it will be the responsibility of the warden to determine if they are subject to the conditions of R.S. 15:538(C).

15. The director of the Division of Probation and Parole and all wardens shall establish procedures to implement the policy provisions of this regulation to ensure strict adherence to the procedures outlined herein.

D. Sex Offender Treatment Program Pursuant to R.S. 15:828

1. Sex offenders for the purpose of this statute are defined as persons committed to the custody of the Department of Public Safety and Corrections, for any of the following crimes:

- a. R.S. 14:41 rape;
- b. R.S. 14:42 aggravated rape;
- c. R.S. 14: 42.1 forcible rape;
- d. R.S. 14:43 simple rape;
- e. R.S. 14:43.1 sexual battery;
- f. R.S. 14:43.2 aggravated sexual battery;
- g. R.S. 14:43.3 oral sexual battery;
- h. R.S. 14:43.4 aggravated oral sexual battery;

- i. R.S. 14:43.5 intentional exposure of aids virus;
- j. R.S. 14:76 bigamy;
- k. R.S. 14:77 abetting in bigamy;
- l. R.S. 14:78 incest;
- m. R.S. 14:78.1 aggravated incest;
- n. R.S. 14:80 carnal knowledge of a juvenile;
- o. R.S. 14:81 indecent behavior with juveniles;
- p. R.S. 14:81.1 pornography involving juveniles;
- q. R.S. 14:81.2 molestation of a juvenile;
- r. R.S. 14:89 crime against nature; or
- s. R.S. 14:89.1 aggravated crime against nature.

2. Subject to the availability of resources and appropriate individual classification criteria, sex offenders as enumerated in §337.D.1.a - s and who are housed in a state correctional facility should be provided counseling and therapy by institutional mental health staff in a sex offender treatment program until successfully completed or until expiration of sentence, release on parole in accordance with and when permitted by R.S. 15:574.4, or other release in accordance with law, whichever comes first.

3. A sex offender treatment program means one which includes either or both group and individual therapy and may include arousal reconditioning. Group therapy should be conducted by two therapists, one male and one female. Subject to availability of staff, at least one of the therapists should be licensed as a psychologist, board-certified as a psychiatrist, or a clinical social worker. A therapist may also be an associate to a psychologist under the supervision of a licensed psychologist.

4. Reports, assessments, and clinical information, as available, including any testing and recommendations by mental health professionals, shall be made available to the Board of Parole.

5. If the inmate falls under the provisions of R.S. 15:538(C), then he should be treated in accordance with that statute and not R.S. 15:828.

E. Sex Offender Treatment Program Pursuant to C.Cr.P. Art. 895(J). In addition to other requirements of law, in cases where a defendant has been convicted of an offense involving criminal sexual activity, the court shall order as a condition of probation that the defendant successfully complete a sex offender treatment program. As part of the sex offender treatment program, the offender shall participate with a victim impact panel or program providing a forum for victims of criminal sexual activity and sex offenders to share experiences on the impact of the criminal sexual activity in their lives. The Director of Probation and Parole shall establish procedures to implement victim impact panels. All costs for the sex offender treatment program, pursuant to this Subsection shall be paid by the offender.

F. Consent for Medroxyprogesterone Acetate Treatment Form

Consent for Medroxyprogesterone Acetate Treatment

By my signature below, I hereby confirm that I have been informed of the uses and side effects involved with medroxyprogesterone acetate treatment or its chemical equivalent, hereinafter referred to as "the Treatment."

My initials before each section of this consent form indicate that each section has been read and discussed with me by the physician or his designee on this date.

___ I understand that this medication is an accepted treatment for sex offender behavior, but the Treatment is not a "cure".

___ I understand that the Treatment will be given in addition to counseling and I agree to participate in counseling during the course of the Treatment.

___ I shall be responsible for the costs of the evaluation, the treatment plan, and the Treatment. If I am not indigent these services will be rendered by an outside mental health provider based upon a fee schedule established by the Department of Public Safety and Corrections. If I am on probation or under parole supervision, services will be rendered at the provider's place of business. If I am housed in an institution, services will be rendered by the provider at the state or local facility.

___ If I am indigent and on probation or under parole supervision, I will be responsible for seeking services through the Department of Health and Hospitals, Office of Mental Health. If I am housed in a state institution, services will be provided by the Department of Public Safety and Corrections= mental health staff and I will be charged a set-up fee based upon the fee scale for non-indigent inmates and my account will reflect the cost of the service as a debt owed.

___ I agree to cooperate with any psychological and medical evaluations, including but not limited to a complete physical examination and any laboratory, radiological, or neurological testing deemed necessary by the physician, with appropriate counseling by the physician or his designee prior to initiation of the Treatment to assess the possible effectiveness of the Treatment.

___I understand that the following are possible or potential side effects associated with the Treatment:

Minor Side Effects

B Acne, dizziness, hair growth, headache, nausea, or vomiting. These side effects should disappear as your body adjusts to the medication.

B This medication can increase your sensitivity to sunlight. Avoid prolonged exposure to sunlight and sunlamps. Wear protective clothing and use an effective sunscreen.

B This medication may cause tenderness, swelling or bleeding of the gums. Brushing and flossing your teeth regularly may prevent this. Also, you should see your dentist regularly while you are taking this medication.

B If you feel dizzy or light-headed, sit or lie down for a while; get up slowly from a sitting or reclining position, and be careful of stairs.

Major Side Effects

B Tell your doctor about any side effects that are persistent or particularly bothersome. IT IS ESPECIALLY IMPORTANT TO TELL YOUR DOCTOR if you experience breast tenderness; chest pain; depression; fainting; hair loss; itching; pain in the calves; rapid weight gain (three to five pounds within a week); rash; slurred speech; sudden, severe headache; swelling of the feet or ankles; or yellowing of the eyes or skin.

___ I understand that the Treatment should not interact with other medications if it is used according to the physician's directions and monitoring.

___ Promptly consulting your doctor is the best path to a quick and successful resolution of any medical problem or question you may have about the Treatment. I understand the following **Warnings** and agree to participate in my care by informing my physician of any problem, including but not limited to the following:

B Unusual or allergic reactions I have had to any medications, especially to medroxyprogesterone acetate (the Treatment), progestin, or progesterone.

B Any history of cancer of the breast or genitals, clotting disorders, diabetes mellitus, depression, epilepsy, gallbladder disease, asthma, heart disease, kidney disease, liver disease, migraines, porphyria, or stroke.

B Dizziness or drowsiness (do not take part in any activities that require alertness, such as driving a car or operating potentially dangerous machinery).

___ I understand that any physician or qualified mental health professional who acts in good faith in compliance with the provisions of La. R.S. 15:538(C), in the administration of the Treatment or the provision of counseling shall be immune from civil or criminal liability for his actions in connection with the Treatment or counseling as a means of altering sexual offender behavior.

___ I understand that in some individuals the Treatment may not be effective at all for the problem of sexual offender behavior.

___ If a relapse or recurrence of sexual offender behavior occurs while receiving the Treatment or after discontinuation of the Treatment, I agree to in-patient treatment if deemed appropriate by a physician, whether or not incarcerated at the time of recurrence of the sexual offender behavior.

___ I agree to a full psychological and medical evaluation with laboratory examination(s), radiological or neurological evaluation(s) as determined by the attending physician with appropriate counseling by the physician or his designee prior to release from custody or if I choose to discontinue the Treatment at any time.

___ I understand that once the Treatment is initiated, it shall continue unless it is determined by the physician or mental health professional that it is no longer necessary. I also understand that discontinuation of the Treatment at any time in the future would stop the therapeutic effect of the Treatment until it is resumed.

___ I understand that failure to continue or complete the Treatment shall be grounds for revocation of probation, parole, or suspension of sentence, or, if so conditioned by the Parole Board, revocation of release on diminution of sentence as if on parole. I also understand that if I am housed in an institution and fail to continue or complete the Treatment, good time earned may be forfeited pursuant to La. R.S. 15:571.4.

I, _____, on this date _____, have been informed of the uses and side effects involved with taking medroxyprogesterone acetate as a treatment for sex offenders. I agree to take the Treatment of my own free will and with full understanding of the possible risks versus potential benefit.

I, _____, on this date _____, have been informed of the uses and side effects involved with taking medroxyprogesterone acetate and refuse to participate in the Treatment. I understand that failure to participate will render me ineligible for probation, parole, suspension of sentence or diminution of sentence if conditioned by the court.

I, _____, on this date _____, give Dr. _____ permission to treat me with medroxyprogesterone acetate and agree to testing and counseling as stated above.

As the physician of record or his designee (medical or mental health), I attest to my counseling this patient of the use and side effects of medroxyprogesterone acetate or its chemical equivalent as treatment for sex offenders.

(Signature and date)

Patient Signature	_____	Date	_____
Physician Signature	_____	Date	_____
Witness (of Patient signature)	_____	Date	_____
Witness (of MD signature)	_____	Date	_____
Witness (of Patient signature)	_____	Date	_____
Witness (of MD signature)	_____	Date	_____

The consent form must be completed in its entirety with all three pages constituting a total consent form in Louisiana before the administration of medroxyprogesterone acetate treatment or its chemical equivalent for sexual offender behavior regardless of the sexual offender's current, prior, or future status of incarceration.

White copy consent	Chart
Yellow copy consent	Court
Blue copy consent	Physician

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:538(C).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 24:2308 (December 1998), amended LR 26:332 (February 2000).

Richard L. Stalder
Secretary

0002#125

RULE

**Department of Public Safety and Corrections
Gaming Control Board**

Accounting Regulations; Repeal of Rules
(LAC 42:XIII.2724, 2737, 2744, 2745 and 2747)

The Louisiana Gaming Control Board hereby repeals LAC 42:XIII.2724, 2737, 2744, 2745 and 2747 in accordance with La. R.S. 27:15 and 24, and the Administrative Procedure Act, La R.S. 49:950 et seq.

Title 42
LOUISIANA GAMING
Part XIII. Riverboat Gaming

Chapter 27. Accounting Regulations

§2724. Repealed

§2737. Repealed

§2744. Repealed

§2745. Repealed

§2747. Repealed

Hillary J. Crain
Chairman

0002#116

RULE

Department of Public Safety and Corrections
Gaming Control Board

Operating Standards; Check Cashing
(LAC 42:IX.2919-2924, 42:XIII.4001-4013)

The Louisiana Gaming Control Board hereby adopts amendments to LAC 42:IX.2919 and adopts LAC 42:IX.2921 through 2924 and XIII.4001-4013 in accordance with La. R.S. 27:15 and 24, and the Administrative Procedure Act, La. R.S. 49:950 et seq.

Title 42
LOUISIANA GAMING
Part IX. Landbased Casino Gaming

Chapter 29. Operating Standards

§2919. Advertising; Mandatory Signage

A. The Board may regulate and establish procedures for the regulation of advertising and marketing casino events and activities. Additionally, the board may require the casino operator or casino manager to advertise or publish specified information, slogans and telephone numbers relating to avoidance and treatment of compulsive or problem gambling or gaming. The casino operator and casino manager shall immediately comply with any order of the board issued pursuant to this regulation.

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 25:1953 (October 1999), amended LR 26:335 (February 2000).

§2921. Entertainment Activities

A. No entertainment shall be offered within the designated gaming area unless the casino operator or casino manager receives approval from the Division to provide such entertainment.

B. The casino operator or casino manager shall file a written submission with the Division at least five days prior to the commencement of such entertainment, which shall include, at a minimum, the following information:

1. the date and time of the scheduled entertainment;
2. a detailed description of the type of entertainment to be offered;
3. the number of persons to be involved in the entertainment;
4. the exact location of the entertainment in the designated gaming area;

5. a description of any additional security measures that will be implemented as a result of the entertainment; and

6. a certification from the casino that the proposed entertainment will not adversely affect security, surveillance, the integrity of the gaming operations and the safety and security of persons in the casino.

C. The submission in Subsection B shall be deemed approved by the Division unless the casino is notified in writing to the contrary within five days of filing.

D. In reviewing the suitability of an entertainment proposal, the Division shall consider the extent to which the entertainment proposal:

1. may unduly interfere with efficient casino operations;

2. may unduly interfere with the security of the casino or any of the games therein or any restricted casino area, or may unduly interfere with surveillance operations; and

3. may unduly interfere with the safety and security of persons in the casino.

E. The Division, in its sole discretion, may grant ongoing approval for scheduled entertainment events that follow a set pattern. The duration of the approval shall be at the discretion of the Division.

F. The Division may at any time require the casino operator or casino manager to immediately cease any entertainment offered within the casino if the entertainment provided is materially different from the description contained in the submission filed pursuant to Subsection B above, or in any way compromises security, surveillance, the integrity of the gaming operations or the safety and security of persons in the casino.

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 26:335 (February 2000).

§2922. Promotions; Increased Slot Jackpots; Coupons and Scrip

A. All promotion programs that are in contravention of any gaming law or regulation are prohibited. All promotions, including, but not limited to, contests or tournaments that involve any coupon or scrip that impact the integrity of the games, the security, surveillance and well-being of persons in the casino or the calculation of gross gaming revenue shall be subject to prior written approval by the Division unless otherwise provided in these rules and regulations. The Division may alter or waive the requirements of regulations §2922-2923.4 upon a showing of good cause.

B. The increased portion of the payout or jackpot that results from promotional activities shall be considered a promotional expense and accounted for on the casino operator's or casino manager's books accordingly. The increased portion of the payout or jackpot shall not be included as winnings unless approved in advance. Winnings for the purposes of the definition of gross gaming revenue means the total amount delivered by a gaming device as win to a patron or the amount determined by the approved table game odds as win to a patron, exclusive of any double jackpots, increased payouts in addition to table game odds or other increased payouts that result from promotional activities, unless approved, in advance, by the Board. The increased portion of a jackpot that results from the

promotion shall not be paid by the machine itself, but shall be paid manually.

C. Request for approval shall be made in writing and received by the Division at least ten days prior to the commencement of the promotion. Request for approval shall include, at a minimum, a description of the proposed coupon or scrip, the dates that the promotion will be available to patrons, the proposed use of the coupon or scrip and the method of accounting. If approval is granted, the casino operator or casino manager shall adopt internal controls as prescribed by the Division.

D. Other promotions not specified in §§922-2924 shall require that the casino operator or casino manager give and the Division receive thirty days written notice of the promotion, unless a shorter time is approved by the Division.

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 26:335 (February 2000).

§2923. Tournaments

A. All tournaments conducted in the casino are subject to prior written approval by the Division.

1. A tournament is a contest or event wherein persons play a game or games previously authorized by the Division in competition with each other to determine the winner of a prize or prizes.

2. A tournament shall include, but is not limited to, any contest or event wherein an entry fee is paid to play a game previously approved by the Division. An entry fee shall include any fee paid directly or indirectly, by or on behalf of the person playing in the tournament.

3. Unless a shorter time is approved by the Division, a request for approval of a tournament shall be made in writing and received by the Division at least thirty days prior to the commencement date of the tournament. The request for approval shall contain a complete description of the tournament; the manner of entry; a description of those persons eligible to enter the tournament; the entry fee assessed, if any; the prizes to be awarded; the manner in which the prizes are to be awarded and the dates of the tournament. The Division may request additional information prior to rendering a decision. Any incomplete request for approval shall be denied.

4. All entry fees shall be included in gross gaming revenue. Cash prizes awarded in tournaments shall be deducted as payouts for the purposes of calculating gross gaming revenue. Neither the value of noncash prizes nor the cost thereof shall be deducted in the calculation of gross gaming revenue. No other deductions shall be made for the purposes of calculating gross gaming revenue.

5. All entry fees and cash prizes shall be reported on the gross gaming revenue report in a manner approved by the Division. Copies of source documents such as transfer slips of the participants' entry fees to either the vault or cage and transfer slips of the participants' winnings paid out from either the cage or the vault must accompany the gross gaming revenue report on which the entry fee or payout is reported.

6. All tournament slot meters shall be read both electronically and manually before the machine's EPROM is changed for tournament play and again once the tournament EPROM has been installed. The meters for these machines

shall be read both electronically and manually once tournament play has ended. All meter readings shall be recorded and retained in accordance with the rules and regulations concerning record retention in Chapter 27.

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 26:336 (February 2000).

§2924. Giveaways and Drawings

A. The casino operator or casino manager are allowed to give away prizes and cash awards by means of drawings of any kind only under the following circumstances.

1. Only persons 21 years of age and older shall be eligible to participate.

2. Persons eligible to receive anything, including cash, shall not be required to purchase anything, including the purchase of chips or tokens from the casino or from any other business, nor shall they be required to participate in any gaming activity or be required to put up anything of value or pay an entry fee.

3. Participation in drawings of any kind shall be made available to the general public. If entry forms are required they shall be conveyed to the general public in a prominent manner. Such forms may be made available in the casino, but shall not be perfunctorily distributed to patrons.

4. The casino operator or casino manager shall give, and the Division shall receive, at least five-days written notice, exclusive of weekends and holidays, of drawings of any kind. Such notice shall describe the drawing in detail including the manner in which a person becomes eligible to receive anything to be given away. The notice shall also provide the full name, telephone number, and complete address of the contact person who has authority to make decisions relative to the drawing.

5. The Division may disapprove a drawing at any time. If the Division disapproves a drawing, then it may not be conducted. If a drawing of any kind is already underway, it shall be discontinued upon notice of disapproval by the Division. Disapproval does not need to be in writing to be effective, but any oral disapproval must be followed by written notice of the disapproval within three days of the oral disapproval.

B. In connection with any promotional program conducted by the casino operator or casino manager, the person conducting the promotional program shall comply with any and all requirements and restrictions contained in Louisiana law including, without limitation:

1. Charitable Gaming Laws, R.S. 33:4861.1-4861.28 and R.S. 40:1485.1-1485.11 and the regulations adopted pursuant thereto;

2. R.S. 27:260 relating to underage gaming and the regulations adopted pursuant thereto;

3. restrictions imposed by Chapter 37 of these regulations; and

4. any other requirements or restrictions imposed by law or these Regulations.

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 26:336 (February 2000).

Part XIII. Riverboat Gaming
Subpart 2. State Police Riverboat Gaming
Enforcement Division

Chapter 40. Designated Check Cashing
Representatives

§4001. Definitions

Check Cashing Cage the check cashing area on a riverboat not located within the designated gaming area to be accessed by the designated check cashing representative or its employees for the purposes of cashing checks and making credit card advances.

Designated Check Cashing Representative a person designated by the licensee and permitted by the division to oversee and assume responsibility for cashing patrons' checks and facilitating credit card cash advances to patrons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:337 (February 2000).

§4002. Application for Permit for Designated Check Cashing Representative; Additional Requirements; Summary of Proposed Operations

A. The Division may require any applicant for a permit to conduct check cashing and credit card advance services pursuant to the provisions of this Chapter to provide the division with a summary describing the financial, internal, and security aspects of the proposed check cashing and credit card advance operations, including but not limited to:

1. accounting and financial controls, including the procedures to be utilized in counting, banking, storage and handling of cash;
2. procedures, forms, expense and overhead schedules, cash equivalent transactions, salary structure and personnel practices;
3. job descriptions and a system of personnel and chain of command, establishing a diversity of responsibility among employees engaged in operations and identifying primary and secondary supervisor positions for areas of responsibility;
4. procedures within the check cashing cage for the receipt, storage, and disbursement of cash and other cash equivalents;
5. procedures and security for the counting and recordation of transactions;
6. procedures for the cashing and recordation of checks exchanged by customers of the designated check cashing representative;
7. procedures governing the utilization of the licensee's security force within the check cashing cage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:337 (February 2000).

§4003. Cash Transaction Reporting

A. A designated check cashing representative shall report a cash transaction reporting violation to the division immediately upon obtaining knowledge by the designated check cashing representative of the violation.

B. Violation of check transaction reporting requirements in other states by a designated check cashing representative

shall be reported to the division within thirty days of the notice of violation in the other jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:337 (February 2000).

§4004. General Requirements

A. The check cashing cage may be accessed by security personnel of the licensee and personnel from the division upon presentation of proper identification.

B. The designated check cashing representative shall be a single source provider for these services and these responsibilities shall not be assigned or subcontracted to any party.

C. The designated check cashing representative shall not issue credit or credit instruments, chips, markers, counter checks, tokens or electronic cards which may be used directly in gaming on the riverboat.

D. The designated check cashing representative shall be located on the riverboat in an area not within the designated gaming area and shall not participate in management or operations of any riverboat gaming operations or activity.

E. The designated check cashing representative shall be located in a designated check cashing cage.

F. No employee of the designated check cashing representative shall be an employee of any licensee.

G. The designated check cashing representative shall maintain detailed records of all returned checks.

H. The designated check cashing representative shall maintain work papers supporting the daily reconciliation of cash and cash equivalent accountability.

I. The designated check cashing representative shall maintain detailed records required to be maintained by the division.

J. The division may review records of the designated check cashing representative at any time upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:337 (February 2000).

§4005. Imposition of Sanctions

The Division may impose any sanction authorized by the act for violation of the designated check cashing representative's internal controls as approved by the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:337 (February 2000).

§4006. Record Retention

Each designated check cashing representative shall provide the division, upon its request, with the records required to be maintained by the act or these rules. Unless a shorter time period is approved by the division in writing, each designated check cashing representative shall retain all records for a minimum of five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:337 (February 2000).

§4007. Clothing Requirements

A. Designated check cashing representative's employees shall not bring purses, handbags, briefcases, bags or any other similar item into the check cashing cage unless it is transparent.

B. No employee shall wear clothing with pockets or other components.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:338 (February 2000).

§4008. Internal Controls; Designated Check Cashing Representative

A. Each designated check cashing representative shall establish and implement, beginning the first day of operations, administrative and accounting procedures for the purpose of exercising effective control over the designated check cashing representative's internal physical affairs. The procedures shall be implemented to reasonably insure that:

1. all assets are safeguarded;
2. financial records are accurate and reliable;
3. transactions are performed only in accordance with the designated check cashing representative's internal controls as approved by the division;
4. access to assets is permitted only in accordance with the designated check cashing representative's internal controls as approved by the division;
5. functions, duties and responsibilities are appropriately segregated and performed in accordance with sound practices by competent, qualified personnel.

B. Each designated check cashing representative shall describe, in such manner as the division may approve or require, its administrative and accounting procedures in detail and a written system of internal controls. Each designated check cashing representative shall submit a copy of its written system to the division for approval prior to commencement of the designated check cashing representative's operations. Each written system shall include:

1. an organizational chart depicting appropriate segregation of functions and responsibilities;
2. a description of the duties and responsibilities of each position shown on the organizational chart;
3. a detailed, narrative description of the administrative and accounting procedures designed to satisfy the requirements of Subsection A;
4. a written statement signed by an officer of the designated check cashing representative attesting that the system satisfies the requirements of this section;
5. other information as the division may require; and
6. a flow chart illustrating the information required in Subsections 1, 2 and 3 above.

C. Each designated check cashing representative shall establish and provide, at the request of the division, the following:

1. an income statement summarizing the revenue and expenses of the entire check cashing cage operation;
2. summary credit card cash advance transaction information:
 - a. number of transactions per day;
 - b. total amount advanced by day; and
 - c. fee revenue generated by day;

3. summary check cashing transaction information:
 - a. number of transactions per day;
 - b. total amount advanced by day; and
 - c. fee revenue generated by day;
4. return check information:
 - a. total amount of returned checks per month; and
 - b. total amount of collections per month.

D. The designated check cashing representative shall not implement its initial system of internal control procedures unless the division determines that the designated check cashing representative's proposed system satisfies Subsection A, and approves the system in writing.

E. The designated check cashing representative shall provide to the division a monthly report detailing all insufficient fund checks. The report required under this subsection shall be submitted to the division within fifteen days of the end of each month.

F. Prior to changing any procedure required by this chapter to be included in the designated check cashing representative's internal control system, the designated check cashing representative shall obtain written approval by the division in the manner prescribed for obtaining approvals in Chapter 29.

G. The internal control system adopted by the designated check cashing representative and approved by the division shall be incorporated into the licensee's internal controls. A violation of any part of the approved internal control system committed by an employee of the designated check cashing representative shall constitute a violation by the designated check cashing representative and shall also constitute a violation by the licensee. The licensee may be sanctioned in the same manner as the designated check cashing representative for such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:338 (February 2000).

§4009. Internal Controls; Cage and Credit

A. Each licensee shall maintain a main bank which will serve as the financial consolidation of transactions relating to all gaming activity. Each casino cage or check cashing cage shall comply with the following minimum requirements.

1. All transactions that flow through the check cashing cage shall be summarized on a cage accountability form on a per shift basis.

2. Personal checks or cashier checks shall be cashed at the cage cashier or at the check cashing cage by the designated check cashing representative and subjected to the following procedures:

- a. examine and record at least one item of patron identification;
- b. record a bank number and social security number on all check transactions.

3. The cashier or designated check cashing representative shall comply with examination and documentation procedures as required by the issuer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:338 (February 2000).

§4010. Currency Transaction Reporting

A. Each designated check cashing representative shall be responsible for proper reporting of certain monetary transactions to which it is a party to the federal government as required by the Bank Records and Foreign Transactions Act (Public Law 91-508), commonly referred to as the "Bank Secrecy Act" as codified in Title 31 Section 5311-5323, and Title 12 Sections 1730 d, 1829, and 1951-1959. Specific requirements concerning record keeping and reports are delineated in Title 31 CFR 103 and shall be followed in their entirety. The Bank Secrecy Act and the rules and regulations promulgated by the federal government pursuant to the Bank Secrecy Act as they may be amended from time to time, are adopted by reference and are to be considered incorporated herein.

B. Civil and/or criminal penalties may be assessed by the federal government for willful violations of the reporting requirements of the Bank Secrecy Act. These penalties may be assessed against the designated check cashing representative, as well as any director, partner, official or employee that participated in the above referenced violations.

C. All employees of the designated check cashing representative shall be prohibited from providing any information or assistance to patrons in an effort to aid the patron in circumventing any and all currency transaction reporting requirements to which it is a party.

D. Designated check cashing representative employees shall be responsible for preventing a patron from circumventing the currency transaction reporting requirements if the employee has knowledge, or through reasonable diligence in performing their duties, should have knowledge of the patron's efforts at circumvention.

E. For each required Currency Transaction Report, a surveillance photograph of the patron shall be taken and attached to the licensee's or the designated check cashing representative's copy of the Currency Transaction Report. The employee consummating the transaction shall be responsible for contacting the surveillance department employee. The designated check cashing representative shall maintain and make available for inspection all copies of Currency Transaction Reports which it has prepared, with the attached photographs, for a period of five years. The designated check cashing representative shall be responsible for maintaining a transaction log in compliance with all requirements of Section 2731.G.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:339 (February 2000).

§4011. Internal Controls Compliance

The designated check cashing representative shall have a continuing duty to review its internal controls to ensure the internal controls remain in compliance with the act and these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:339 (February 2000).

§4012. Servant of Licensee

The designated check cashing representative shall be considered a servant of the licensee for the limited purpose of R.S. 27:101 and shall not cash any of the checks identified in that section and will be subject to the enforcement provisions of that section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:339 (February 2000).

§4013. Violations by the Designated Check Cashing Representative

A violation of any applicable statute or rule by the designated check cashing representative shall constitute a violation of such statute or rule by the licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:339 (February 2000).

Hillary J. Crain
Chairman

0002#005

RULE

**Department of Public Safety and Corrections
Gaming Control Board**

Reciprocity, Application and Reporting Forms,
Application and License
(LAC 42:III.119, 120; 42:XI.2405 and XIII.2331)

The Louisiana Gaming Control Board hereby adopts LAC 42:III 119 and 120, amends LAC 42:XI.2405, and adopts XIII.2331 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 1. General Provisions

§119. Reciprocity

Any person licensed or permitted pursuant to the provisions of Chapters 4, 5, 6, or 7 of Title 27 of the Revised Statutes which seeks to apply for and be licensed or permitted to manufacture, repair or sell slot machines, gaming devices, gaming supplies or nongaming supplies or to provide services pursuant to another Chapter of Title 27 shall:

1. meet all statutory requirements of the Chapter for which an application or authorization to conduct business is sought, all general rules of the board and all rules and regulations applicable to the new gaming activity;

2. be in good standing with the board, the gaming enforcement section of the Louisiana State Police and the division with responsibility relative to regulation of the gaming activity for which the licensee or permittee is licensed or permitted to engage in. Good standing for the purposes of this section shall mean that:

- a. the licensee or permittee has no administrative or enforcement actions pending relative to the respective license or permit;
- b. there are no pending or ongoing investigations of possible violations by the licensee or permittee;
- c. the licensee or permittee has filed a complete application and provided any and all information required to be furnished by statute, rule or regulation or which has been requested to be provided by the board or the respective division;

3. any administrative or enforcement action, other than assessment of a civil penalty, instituted against a licensee or permittee shall apply to and be given reciprocal effect to all licenses, permits or other authorizations to conduct business held by such licensee or permittee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:339 (February 2000).

§120. Application and Reporting Forms

A. All applicants, licensees, permittees, and persons required to be found suitable shall utilize and complete, as applicable, the most recent version of the following forms.

- 1. Riverboat
 - a. Level I, Part A, Suitability Gaming Application, DPSSP 6616, including, but not limited to:
 - i. Instructions;
 - ii. Application for Gaming License or Suitability Approval Application, Business Entity Form;
 - iii. Applicant Information;
 - iv. Ownership Interest;
 - v. General Information;
 - vi. Records/Books Information;
 - vii. Professional Services Information;
 - viii. Gaming Information (Miscellaneous);
 - ix. General Applicant Information;
 - x. Financial Disclosure Information;
 - xi. Affidavit of Full Disclosure;
 - xii. Applicant's Request to Release Information;
 - xiii. Verification;
 - xiv. Release of All Claims;
 - xv. Business Tax Information Authorization Request;
 - xvi. Federal Business, Trusts, Estates, Etc. Consent to Disclosure of Tax Information;
 - xvii. Federal Internal Revenue Service Gaming Tax Clearance Certificate;
 - xviii. State Business, Trusts, Estates, Etc. Consent to Disclosure of Tax Information;
 - xx. Louisiana Department of Revenue & Taxation Tax Clearance Certificate.
 - b. Level I, Part B, Personal History and Financial Record Suitability Gaming Application, DPSSP 6617, including, but not limited to:
 - i. Instructions;
 - ii. Personal History and Financial Record Suitability Gaming Application;
 - iii. Personal Information;
 - iv. Criminal History Information;
 - v. Civil Litigation Information;
 - vi. Military Service Data Information;
 - vii. Employment History Information;

- viii. Professional Licenses, Etc., Information;
- ix. Business Associations Information;
- x. Financial Information;
- xi. General Information;
- xii. Supplemental Page Information;
- xiii. Verification;
- xiv. Affidavit of Full Disclosure;
- xv. Individual's Request To Release Information;
- xvi. Release of All Claims;
- xvii. Individual Tax Information Authorization Request;
- xviii. Louisiana Department of Revenue & Taxation Tax Clearance Certificate;
- xx. State Individual Consent to Disclosure of Tax Information;
- xxi. Federal Internal Revenue Service Tax Clearance Certificate;
- xxiii. Federal Individual Consent to Disclosure of Tax Information.
- c. Level I, Part A & B, Renewal Riverboat Gaming Application, DPSSP 6618 & 6619, including, but not limited to:
 - i. Part A – Instructions;
 - ii. Additional Application Information Required;
 - iii. Part B – Instructions;
 - iv. Definitions.
- d. Level I, Renewal Suitability Gaming Application, Part A, DPSSP 6618, including, but not limited to:
 - i. Applicant Information;
 - ii. General Information;
 - iii. Records/Books Information;
 - iv. Professional Services Information;
 - v. Gaming Interest Information;
 - vi. General Information;
 - vii. Financial Disclosure Information;
 - viii. Affidavit of Full Disclosure;
 - ix. Applicant's Request To Release Information;
 - x. Verification;
 - xi. Release of All Claims;
 - xii. Business Tax Information Authorization Request;
 - xiii. Federal Business, Trusts, Estates, Etc. Consent To Disclosure of Tax Information;
 - xiv. Federal Internal Revenue Service Tax Clearance Certificate;
 - xv. State Department of Revenue & Taxation Consent To Disclosure of Tax Information;
 - xvi. Louisiana Department of Revenue & Taxation Tax Clearance Certificate.
- e. Level I, Renewal Suitability Gaming Application, Part B, Personal History and Financial Record, DPSSP 6619, including, but not limited to:
 - i. Personal Information;
 - ii. Criminal History Information;
 - iii. Civil Litigation Information;
 - iv. Employment History;
 - v. Professional Licenses, Etc. Information;
 - vi. Business Associations Information;
 - vii. Financial Information;
 - viii. General Information;
 - ix. Supplemental Page Information;

- x. Verification;
- xi. Affidavit of Full Disclosure;
- xii. Individual's Request To Release Information;
- xiii. Release Of All Claims;
- xiv. Individual Tax Information Authorization Request;
- xv. Louisiana Department of Revenue & Taxation Tax Clearance Certificate;
- xvi. State Individual Consent to Disclosure of Tax Information;
- xvii. Federal Internal Revenue Service Tax Clearance Certificate;
- xviii. Federal Individual Consent to Disclosure of Tax Information.
- f. Casino Gaming Key Employee Permit Application, Instructions and Application, DPSSP 0074, including, but not limited to:
 - i. Application for Permit;
 - ii. Personal History and Financial Record;
 - iii. Personal Financial Questionnaire;
 - iv. Verification;
 - v. Affidavit of Full Disclosure;
 - vi. Release of all Claims;
 - vii. Individual Tax Information Authorization Request;
 - viii. Louisiana Department of Revenue & Taxation Tax Clearance Certificate;
 - ix. State Individual Consent to Disclosure of Tax Information;
 - x. Federal Internal Revenue Service Tax Clearance Certificate;
 - xi. Federal Individual Consent to Disclosure of Tax Information.
- g. Key Riverboat Gaming Employee Renewal Application, DPSSP 0084, including, but not limited to:
 - i. Instruction Sheet;
 - ii. Application For Permit;
 - iii. Affidavit of Full Disclosure;
 - iv. Release of All Claims.
- h. Riverboat and Landbased Casino Non-Key Gaming Employee Permit Application, DPSSP 0075, including but not limited to:
 - i. Permit Application;
 - ii. Gaming Employee Applicant Conditional Approval Agreement (Non-Key Gaming);
 - iii. Request to Release Information and Release of Claims by Company/Corporation/Individual.
- i. Non-Key Riverboat Gaming Employee Renewal Application, DPSSP 0065, including, but not limited to:
 - i. Instruction Sheet;
 - ii. Application For Permit;
 - iii. Employee Gaming Permit Renewal Affidavit;
 - iv. Release of All Claims.
- j. Supplier of Significant Services (Marine Operations) Permit Application Individual Form Instructions and Application, DPSSP 0089
 - i. Instructions;
 - ii. Personal Information;
 - iii. Criminal History Information;
 - iv. Military Service Data Information;
 - v. Civil Litigation Information;
 - vi. Employment History Information;

- vii. Professional Licenses Etc. Information;
- viii. Business Associations Information;
- ix. Personal Financial Questionnaire;
- x. Supplemental Page Information
- xi. Verification;
- xii. Affidavit of Full Disclosure;
- xiii. Individual's Request To Release Information;
- xiv. Release Of All Claims;
- xv. Individual Tax Information Authorization Request;
- xvi. Louisiana Department of Revenue & Taxation Tax Clearance Certificate;
- xvii. State Individual Consent to Disclosure of Tax Information;
- xviii. Federal Internal Revenue Service Tax Clearance Certificate;
- xx. Federal Individual Consent to Disclosure of Tax Information.
- k. Individual Marine Operation Permit Renewal Application, DSSP 0091, including, but not limited to:
 - i. Instruction Sheet;
 - ii. Application For Permit;
 - iii. Affidavit of Full Disclosure;
 - iv. Release of All Claims.
- l. Casino Gaming Non-Gaming Supplier Permit Application, DPSSP 0076, including, but not limited to:
 - i. Application for Permit;
 - ii. Verification;
 - iii. Non-Gaming Application Request to Release Information and Release of Claims Company/Corporation/Individual;
 - iv. Business Tax Information Authorization Request;
 - v. Tax Clearance Request.
- m. Level II, Casino Gaming Permit Application Manufacturers and Suppliers, Part A, DPSSP 0073, including, but not limited to:
 - i. Instruction Page;
 - ii. Schedule of Fees;
 - iii. Application for Permit;
 - iv. Statement of Assets;
 - v. Statement of Liabilities;
 - vi. Verification;
 - vii. Affidavit of Full Disclosure;
 - viii. Release of All Claims;
 - ix. Individual Tax Information Authorization Request;
 - x. Applicants Request to Release Information.
- n. Level II, Casino Gaming Permit Application, Personal History and Financial Record, Part B, DPSSP 0077, including, but not limited to:
 - i. Personal Information;
 - ii. Personal Financial Questionnaire;
 - iii. Statement of Assets;
 - iv. Statement of Liabilities;
 - v. Verification;
 - vi. Affidavit of Full Disclosure;
 - vii. Individuals Request to Release Information;
 - viii. Release of All Claims;
 - ix. Individual Tax Information Authorization Request.

o. Gaming Permit/License Application For Manufacturers, Suppliers/Distributors and Service Entities, DPSSP 6613, including, but not limited to:

- i. Instructions;
- ii. Schedule of Fees;
- iii. Application for Permit;
- vi. Application for Permit;
- v. Vendor Reciprocity Affidavit

p. Non-Gaming Supplier Permit Application For Suppliers of Non-Gaming Goods/Services, DPSSP 6614, (In Accordance with Reciprocity Provisions of La R.S. 27.91(E)), including, but not limited to:

- i. Instructions;
- ii. Application for Permit;
- iii. Vendor Reciprocity Affidavit;
- iv. Request to Release Information and Release of Claims by Company/Corporation/Individual;
- v. Tax Clearance Request;
- vi. Business, Trusts, Estates, Etc. Consent to Disclosure of Tax Information;
- vii. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (State);
- viii. Internal Revenue Service Land Based Casino and Riverboat Gaming Tax Clearance Certificate (Federal).

q. Supplier of Significant Services (Marine Operations) Permit Application, DPSSP 0088, including, but not limited to:

- i. Application for Permit;
- ii. Business Financial Questionnaire;
- iii. Statement of Assets;
- iv. Statement of Liabilities;
- v. Verification;
- vi. Affidavit of Full Disclosure;
- vii. Applicants Request to Release Information;
- viii. Release of All Claims;
- ix. Applicants Tax Information Authorization

Request.

r. Non-Gaming Supplier Renewal Application, DPSSP 0090, including, but not limited to:

- i. Application for Permit;
- ii. Affidavit Form;
- iii. Request to Release Information and Release of Claims by Company/Corporation/Individual;
- iv. Business Tax Information Authorization Request;
- v. Tax Clearance Request.

s. Manufacturer/Supplier Renewal Application, DPSSP 0064, including, but not limited to:

- i. Application for Permit;
- ii. Affidavit Form;
- iii. Request to Release Information and Release of Claims by Company/Corporation/Individual;
- vi. Business Tax Information Authorization Request;
- v. Tax Clearance Request.

t. Fingerprint Cards

2. Land Based Casino

a. Casino Gaming Key Employee Permit Application Instructions and Application, DPSSP 0074, including, but not limited to:

- i. Personal History and Financial Record;

ii. Personal Financial Questionnaire;

iii. Statement of Assets;

iv. Statement of Liabilities

v. Verification;

vi. Affidavit of Full Disclosure;

vii. Individual's Request to Release Information;

viii. Release of all Claims;

ix. Individual Tax Information Authorization Request;

x. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (State);

xi. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (Federal);

xii. Businesses, Trusts, Estates, Etc. Consent to Disclosure of Tax Information.

b. Gaming Key Employee Permit Renewal Application Packet, including, but not limited to:

i. Instructions;

ii. Gaming Key Employee Permit Renewal Application;

iii. Gaming Permit Affidavit;

iv. Request to Release Information and Release of Claims by Company/Corporation/Individual.

c. Riverboat and Landbased Casino Non-Key Gaming Employee Permit Application, DPSSP 0075, including, but not limited to:

i. Permit Application;

ii. Gaming Employee Applicant Conditional Approval Agreement (Non-Key Gaming);

iii. Request to Release Information and Release of Claims by Company/Corporation/Individual.

d. Gaming Non-Key Employee Permit Renewal Application, including, but not limited to:

i. Instructions;

ii. Gaming Non-Key Employee Permit Renewal Application;

iii. Request to Release Information and Release of Claims by Company/Corporation/Individual.

e. Gaming Permit/License Application for Manufacturers, Suppliers/Distributors and Service Entities (In Accordance with Reciprocity Provisions), DPSSP 6613, including, but not limited to:

i. Application for Permit;

ii. Vendor Reciprocity Affidavit.

f. Level II, Casino Gaming Permit Application Manufacturers and Suppliers, Part A, DPSSP 0073, including, but not limited to:

i. Schedule of Fees;

ii. Application for Permit;

iii. Statement of Assets;

iv. Statement of Liabilities;

v. Verification;

vi. Affidavit of Full Disclosure;

vii. Release of all Claims;

viii. Individual Tax Information Authorization Request;

ix. Applicant's Request to Release Information;

x. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (State);

xi. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (Federal);

xii. Business, Trusts, Estates, Etc. Consent to Disclosure of Tax Information.

g. Manufacturers and Suppliers Gaming Permit Renewal Application, including, but not limited to:

- i. Instructions;
- ii. Renewal Application;
- iii. Gaming Permit Affidavit;
- iv. Request to Release Information and Release of Claims by Company/Corporation/Individual;
- v. Individual Tax Information Authorization Request;
- vi. Business Tax Information Authorization Request;
- vii. Tax Clearance Request.

h. Non-Gaming Supplier Permit Application for Suppliers of Non-Gaming Goods/Services (In Accordance with Reciprocity Provisions), DPSSP 6614, including, but not limited to:

- i. Application for Permit;
- ii. Vendor Reciprocity Affidavit;
- iii. Request to Release Information and Release of Claims by Company/Corporation/Individual;
- iv. Tax Clearance Request;
- v. Business, Trusts, Estates, Etc. Consent to Disclosure of Tax Information;
- vi. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance (State);
- vii. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance (Federal).

i. Casino Gaming Non-Gaming Supplier Permit Application, DPSSP 0076, including, but not limited to:

- i. Application for Permit;
- ii. Verification;
- iii. Non-Gaming Application Request to Release Information and Release of Claims Company/Corporation/Individual;
- iv. Business Tax Information Authorization Request;
- v. Tax Clearance Request;
- vi. Business, Trusts, Estates, Etc. Consent to Disclosure of Tax Information;
- vii. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (State);
- viii. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (Federal).

j. Non-Gaming Suppliers Permit Renewal Application, including, but not limited to:

- i. Instructions;
- ii. Renewal Application;
- iii. Affidavit;
- iv. Non-Gaming Request to Release Information and Release of Claims by Company/Corporation/Individual;
- v. Business Tax Information Authorization Request;
- vi. Tax Clearance Request.

k. Level I, Suitability Gaming Application, Part A, including, but not limited to:

- i. Application for License;
- ii. Statement of Assets;
- iii. Statement of Liabilities;
- iv. Affidavit of Full Disclosure;
- v. Applicant's Request to Release Information;
- vi. Individual Tax Information Authorization Request;
- vii. Verification.

l. Level II, Casino Gaming Permit Application Personal History and Financial Record Part B, DPSSP 0077, including, but not limited to:

- i. Personal Information;
- ii. Personal Financial Questionnaire;
- iii. Statement of Assets;
- iv. Statement of Liabilities;
- v. Verification;
- vi. Affidavit of Full Disclosure;
- vii. Individual's Request to Release Information;
- viii. Release of All Claims;
- ix. Individual Tax Information Authorization Request;
- x. Business, Trusts, Estates, Etc. Consent to Disclose Tax Information;
- xi. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (State);
- xii. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (Federal).

m. Land Based Casino Gaming Division, Junket or Limousine Service Casino Gaming Permit Application, DPSSP 6611, including, but not limited to:

- i. Schedule of Fees;
- ii. Application for Permit;
- iii. Statement of Assets;
- iv. Statement of Liabilities;
- v. Verification;
- vi. Affidavit of Full Disclosure;
- vii. Release of all Claims;
- viii. Individual Tax Information Authorization Request;
- ix. Applicant's Request to Release Information;
- x. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (State);
- xi. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (Federal);
- xii. Business, Trusts, Estates, Etc. Consent to Disclosure of Tax Information.

n. Gaming Device Shipment Notification, including, but not limited to:

- i. Gaming Device Shipment Notification, DPSSP 6501;
- ii. Gaming Device Shipment Notification (Supplemental), DPSSP 6502.

o. Finger Print Cards

3. Video Poker

a. Video Gaming Application, DPSSP 0031

- b. Business, Trusts, Estates, Etc. Consent to Disclosure of Tax Information
- c. Affidavit of Full Disclosure, DPSSP 0036
- d. Request to Release Information, DPSSP 0037
- e. Release of All Claims, DPSSP 0035
- f. Individual Consent to Disclosure of Tax Information
- g. Personal History Questionnaire, DPSSP 0032
- h. Personal Financial Questionnaire, DPSSP 0033
- i. Designated Representative/Manager Application Form, DPSSP 5403
- j. Multiple Use Reporting Form, VGD 071498
- k. Application for Video Poker Device Permit, DPSSP 0059
- l. Gaming Device Ownership Transfer Notification, DPSSP 0052
- m. Video Gaming Device Service/Repair Form, DPSSP 0040
- n. Pari-mutuel Wagering Facility Monthly Report, DPSSP 0046
- o. Authorization Agreement for Pre-Authorized Payments, DPSSP 0038
- p. Video Gaming Device Shipment Notification, DPSSP 0043
- q. Minimum Monthly Fuel Sales Report, DPSVGD 1011
- r. Monthly Fuel Sales Meter Reading Report, DPSVGD 1012
- s. Renewal Application, DPSSP 0049
- t. Renewal Affidavit/Certification, DPSSP 0051
- u. Finger Print Cards
- 4. Live Racing Facility Slot Machine Gaming
 - a. Level I, Part A, Suitability Gaming Application, DPSSP 6616, including, but not limited to:
 - i. Instructions;
 - ii. Application for Gaming License or Suitability Approval Application, Business Entity Form;
 - iii. Applicant Information;
 - iv. Ownership Interest;
 - v. General Information;
 - vi. Records/Books Information;
 - vii. Professional Services Information;
 - viii. Gaming Information (Miscellaneous);
 - ix. General Applicant Information;
 - x. Financial Disclosure Information;
 - xi. Affidavit of Full Disclosure;
 - xii. Applicant's Request to Release Information;
 - xiii. Verification;
 - xiv. Release of All Claims;
 - xv. Business Tax Information Authorization Request;
 - xvi. Federal Business, Trusts, Estates, Etc. Consent to Disclosure of Tax Information;
 - xvii. Federal Internal Revenue Service Gaming Tax Clearance Certificate;
 - xviii. State Business, Trusts, Estates, Etc. Consent to Disclosure of Tax Information;
 - xx. Louisiana Department of Revenue & Taxation Tax Clearance Certificate.
 - b. Level I, Part B, Personal History and Financial Record Suitability Gaming Application, DPSSP 6617, including, but not limited to:

- i. Instructions;
- ii. Personal History and Financial Record Suitability Gaming Application;
- iii. Personal Information;
- iv. Criminal History Information;
- v. Civil Litigation Information;
- vi. Military Service Data Information;
- vii. Employment History Information;
- viii. Professional Licenses, Etc., Information;
- ix. Business Associations Information;
- x. Financial Information;
- xi. General Information;
- xii. Supplemental Page Information;
- xiii. Verification;
- xiv. Affidavit of Full Disclosure;
- xv. Individual's Request To Release Information;
- xvi. Release of All Claims;
- xvii. Individual Tax Information Authorization Request;
- xviii. Louisiana Department of Revenue & Taxation Tax Clearance Certificate;
- xx. State Individual Consent to Disclosure of Tax Information;
- xxi. Federal Internal Revenue Service Tax Clearance Certificate;
- xxiii. Federal Individual Consent to Disclosure of Tax Information.
- c. Level I, Part A & B Renewal Riverboat Gaming Application, DPSSP 6618 & 6619, including, but not limited to:
 - i. Part A – Instructions;
 - ii. Additional Application Information Required;
 - iii. Part B – Instructions;
 - iv. Definitions.
- d. Level I, Renewal Suitability Gaming Application, Part A, DPSSP 6618, including, but not limited to:
 - i. Applicant Information;
 - ii. General Information;
 - iii. Records/Books Information;
 - iv. Professional Services Information;
 - v. Gaming Interest Information;
 - vi. General Information;
 - vii. Financial Disclosure Information;
 - viii. Affidavit of Full Disclosure;
 - ix. Applicant's Request To Release Information;
 - x. Verification;
 - xi. Release of All Claims;
 - xii. Business Tax Information Authorization Request;
 - xiii. Federal Business, Trusts, Estates, Etc. Consent To Disclosure of Tax Information;
 - xiv. Federal Internal Revenue Service Tax Clearance Certificate;
 - xv. State Department of Revenue & Taxation Consent To Disclosure of Tax Information;
 - xvi. Louisiana Department of Revenue & Taxation Tax Clearance Certificate.
- e. Level I, Renewal Suitability Gaming Application, Part B, Personal History and Financial Record, DPSSP 6619, including, but not limited to:
 - i. Personal Information;

- ii. Criminal History Information;
- iii. Civil Litigation Information;
- iv. Employment History;
- v. Professional Licenses, Etc. Information;
- vi. Business Associations Information;
- vii. Financial Information;
- viii. General Information;
- ix. Supplemental Page Information;
- x. Verification;
- xi. Affidavit of Full Disclosure;
- xii. Individual's Request To Release Information;
- xiii. Release Of All Claims;
- xiv. Individual Tax Information Authorization Request;
- xv. Louisiana Department of Revenue & Taxation Tax Clearance Certificate;
- xvi. State Individual Consent to Disclosure of Tax Information;
- xvii. Federal Internal Revenue Service Tax Clearance Certificate;
- xviii. Federal Individual Consent to Disclosure of Tax Information.
- f. Key Riverboat Gaming Employee Permit Application, DPSSP 0074, including, but not limited to:
 - i. Application for Permit;
 - ii. Personal History and Financial Record;
 - iii. Personal Financial Questionnaire;
 - iv. Verification;
 - v. Affidavit of Full Disclosure;
 - vi. Release of all Claims;
 - vii. Individual Tax Information Authorization Request;
 - viii. Louisiana Department of Revenue & Taxation Tax Clearance Certificate;
 - ix. State Individual Consent to Disclosure of Tax Information;
 - x. Federal Internal Revenue Service Tax Clearance Certificate;
 - xi. Federal Individual Consent to Disclosure of Tax Information.
- g. Key Riverboat Gaming Employee Renewal Application, DPSSP 0084, including but not limited to:
 - i. Instruction Sheet;
 - ii. Application For Permit;
 - iii. Affidavit of Full Disclosure;
 - iv. Release of All Claims.
- h. Riverboat and Landbased Casino Non-Key Gaming Employee Permit Application, DPSSP 0075, including but not limited to:
 - i. Permit Application;
 - ii. Gaming Employee Applicant Conditional Approval Agreement (Non-Key Gaming);
 - iii. Request to Release Information and Release of Claims by Company/Corporation/Individual.
 - i. Non-Key Riverboat Gaming Employee Renewal Application, DPSSP 0065, including, but not limited to:
 - i. Instruction Sheet;
 - ii. Application For Permit;
 - iii. Employee Gaming Permit Renewal Affidavit;
 - iv. Release of All Claims.
 - j. Casino Gaming Non-Gaming Supplier Permit Application, DPSSP 0076, including, but not limited to:
 - i. Application for Permit;
 - ii. Verification;
 - iii. Non-Gaming Application Request to Release Information and Release of Claims Company/Corporation/Individual;
 - iv. Business Tax Information Authorization Request;
 - v. Tax Clearance Request.
 - k. Casino Gaming Permit Application, Manufacturer and Suppliers, Part A, DPSSP 0073, including, but not limited to:
 - i. Instruction Page;
 - ii. Schedule of Fees;
 - iii. Application for Permit;
 - iv. Statement of Assets;
 - v. Statement of Liabilities;
 - vi. Verification;
 - vii. Affidavit of Full Disclosure;
 - viii. Release of All Claims;
 - ix. Individual Tax Information Authorization Request;
 - x. Applicants Request to Release Information.
 - l. Level II, Casino Gaming Permit Application, Personal History and Financial Record, Part B, DPSSP 0077, including, but not limited to:
 - i. Personal Information;
 - ii. Personal Financial Questionnaire;
 - iii. Statement of Assets;
 - iv. Statement of Liabilities;
 - v. Verification;
 - vi. Affidavit of Full Disclosure;
 - vii. Individual's Request to Release Information;
 - viii. Release of All Claims;
 - x. Individual Tax Information Authorization Request.
 - m. Gaming Permit/License Application For Manufacturers, Suppliers/Distributors and Service Entities, DPSSP 6613, including, but not limited to:
 - i. Instructions;
 - ii. Schedule of Fees;
 - iii. Application for Permit;
 - vi. Application for Permit;
 - v. Vendor Reciprocity Affidavit.
 - n. Non-Gaming Supplier Permit Application For Suppliers of Non-Gaming Goods/Services, DPSSP 6614, including, but not limited to:
 - i. Instructions;
 - ii. Application for Permit;
 - iii. Vendor Reciprocity Affidavit;
 - iv. Request to Release Information and Release of Claims by Company/Corporation/Individual;
 - v. Tax Clearance Request;
 - vi. Business, Trusts, Estates, Etc. Consent to Disclosure of Tax Information;
 - vii. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (State);
 - viii. Internal Revenue Service Land Based Casino and Riverboat Gaming Tax Clearance Certificate (Federal).
 - o. Non-Gaming Supplier Renewal Application, DPSSP 0090, including, but not limited to:
 - i. Application for Permit;

- ii. Affidavit Form;
- iii. Request to Release Information and Release of Claims by Company/Corporation/Individual;
- iv. Business Tax Information Authorization Request;
- v. Tax Clearance Request.
- p. Manufacturer/Supplier Renewal Application, DPSSP 0064, including, but not limited to:
 - i. Application for Permit;
 - ii. Affidavit Form;
 - iii. Request to Release Information and Release of Claims by Company/Corporation/Individual;
 - vi. Business Tax Information Authorization Request;
 - v. Tax Clearance Request.
- q. Finger Print Cards

5. Reciprocity

- a. Gaming Permit License Application for Manufactures, Suppliers/Distributors and Service Entities, DPSSP 6613, including but not limited to:
 - i. Application for Permit;
 - ii. Vendor Reciprocity Affidavit.
- b. Non-Gaming Supplier Permit Application for Suppliers of Non-Gaming Goods/Services, DPSSP 6614, including but not limited to:
 - i. Application for Permit;
 - ii. Vendor Reciprocity Affidavit;
 - iii. Request to Release Information and Release of Claims by Company/Corporation/Individual;
 - iv. Tax Clearance Request;
 - v. Business, Trusts, Estates, Etc.;
 - vi. Consent to Disclosure of Tax Information;
 - vii. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (State);
 - viii. Louisiana Department of Revenue and Taxation Land Based Casino and Riverboat Gaming Tax Clearance Certificate (Federal).

B. All applicants, licensees, permittees and persons required to be found suitable shall fully comply with all instructions contained in the prescribed forms and shall provide all documentation and information requested therein.

C. Any revisions, additions, or other modifications to the prescribed forms shall be made upon recommendation of the respective division and approval of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR. 26:340 (February 2000).

§2331. Supplier Permit Criteria

The division shall determine whether suppliers providing goods and/or services to licensees are legitimate ongoing businesses. In making such determination the division shall consider any or all of the following nonexclusive factors:

- 1. years in business providing specific goods and/or services procured by licensees;
- 2. number of employees;
- 3. total customer base;

- 4. dollar volume of all sales compared to sales to licensees;
- 5. existence and nature of warehouse and storage facilities;
- 6. existence and number of commercial delivery vehicles owned or leased;
- 7. existence and nature of business offices, equipment and facilities;
- 8. whether the goods and/or services provided to the licensee are brokered, and if so whether the actual supplier distributes through brokers as a common business practice;
- 9. registration with and reporting to appropriate local, state and federal authorities, as applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:346 (February 2000).

Part XI. Video Poker

Chapter 24. Video Draw Poker

§2405. Application and License

A. - B.2. ...

3.a. Beginning with licenses renewed or issued after August 15, 1999, licenses to operate video draw poker devices shall expire as follows:

- i. Licenses with a last digit of 1 or 2 in the license number shall expire on June 30, 2005;
- ii. Licenses with a last digit of 3 or 4 in the license number shall expire on June 30, 2001;
- iii. Licenses with a last digit of 5 or 6 in the license number shall expire on June 30, 2002;
- iv. Licenses with a last digit of 7 or 8 in the license number shall expire on June 30, 2003;
- v. Licenses with a last digit of 9 or 0 in the license number shall expire on June 30, 2004.

b. Beginning on July 1, 2004, all licenses shall have a term of five (5) years from the date of issuance.

4. The appropriate annual fee shall be paid by all licensees regardless of the expiration date of the license on or before July 1 of each year.

5. If an application for renewal has not been received by the division on or before close of business on the date of expiration, the license is expired, and a new application, along with all appropriate fees, shall be required to be filed.

B.6. - B.12.a. ...

b. If surrendered in accordance with §2405, no gaming activities may be conducted at the premises, however the license may be returned to the licensee upon continuance of business operations until the expiration date of the license or after one-hundred eighty (180) days has elapsed from the date business operations were continued, whichever occurs first.

c. Licenses surrendered in accordance with §2405.A to the prescribed forms shall not be subject to renewal unless returned to the licensee.

B.12.d. - D.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control

Hillary J. Crain
Chairman

0002#002

RULE

Department of Public Safety and Corrections Office of State Police

Towing, Recovery, and Storage
(LAC 55:I.1903, 1907, 1909, 1917, 1921,
1933, 1939, 1941, 1945, 1949, and 1969)

The Department of Public Safety and Corrections, Office of State Police, Towing, Recovery and Storage Section, in accordance with R.S. 49:950 et seq., and R.S. 32:1711 through R.S. 32:1731, amends the following rules pertaining to the towing and storage industry.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 19. Towing, Recovery, and Storage

§1903. Scope

A. - C.4. ...

D. Tow trucks that are owned by a business not engaged in towing and/or storage for direct or indirect compensation. An example of that is a tow truck owned by a company to tow vehicles belonging to that company's fleet. Another example would be a tow truck used to pick up vehicles from salvage pools provided that the owner of the tow truck also is the owner of the salvage vehicles. This must be documented by Titles and/or Bills of Sale for the vehicle(s) being towed and such documentation shall be in the possession of the driver of the tow truck.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1731.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), amended LR 26:347 (February 2000).

§1907. Definitions

Tow Truck a motor vehicle equipped with a boom or booms, winches, slings, tilt beds, wheel lifts, under-reach equipment, and/or similar equipment including, but not limited to, trucks attached to trailers and car carriers designed for the transportation and/or recovery of vehicles and other objects which cannot operate under their own power or for some reason must be transported by means of towing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1731.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), amended LR 19:502 (April 1993), LR 26:347 (February 2000).

§1909. Tow Truck License Plates

A. - C.2. ...

D. Any notice required by law or by the rules of the Department served upon any holder of a towing license plate shall be served personally or mailed to the last known address of such person as reflected by the records on file with the Department. It is the duty of every holder of a tow truck license plate to notify the Department of Public Safety and Corrections, in writing, as to any change in the address of such person or his principal place of business within 10 days of such change.

E.1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1731.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), amended LR 26:347 (February 2000).

§1917. Towing Operators Requirements

A. - C. ...

D. Drivers must be 18 years of age or older. Only those with a Louisiana drivers license shall be permitted to drive and operate a tow truck. The class of operators license must be compatible to the equipment operated.

E. A towing service will not be allowed to receive calls on any police radio communications system, unless authorized by a law enforcement agency and possesses a valid FCC license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1731.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), amended LR 26:347 (February 2000).

§1921. Other Required Equipment

A. - B. ...

C. Fire Extinguishers: Each tow truck shall be equipped with a fire extinguisher having an Underwriters Laboratories rating of 5 B:C or more.

D. - E. ...

F.1. Every towed vehicle shall be coupled to the tow truck with two safety chains of a structural strength adequate to safely tow the vehicle.

F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1731.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), amended LR 26:347 (February 2000).

§1933. Prohibition of Unauthorized Operation

A. No person regulated under these rules shall stop at the scene of an accident or at or near an unattended disabled vehicle for the purpose of soliciting an engagement for towing service, either directly or indirectly, nor furnish any towing service, unless that person has been summoned to such scene by the owner or operator of the disabled vehicle or has been requested to perform such services by a law enforcement officer or agency pursuant to that agency's authority.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1731.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), amended LR 26:347 (February 2000).

§1939. Towing/Storage Facility Business Practices

A. Storage facility business hours for purposes of inspection of records, place of business, and towing equipment shall be 8 a.m. to 5 p.m., excluding weekends and holidays.

1. When an operator is not open for business and does not have personnel present at the place of business, the operator shall post a clearly visible telephone number at the business location for the purpose of advising the public how to make contact for the release of vehicles or personal property.

2. All billing invoices that are provided to the redeemer of the vehicle shall be consecutively numbered and shall contain the following information:

- a. date of service and tow truck operator(s) name;
- b. the name of any police agency requesting the tow if applicable;
- c. if the call for service is for a private individual, then an invoice must contain the full name, address, drivers license number or some form of permanent identification of the person requesting the tow and his/her signature at time of tow. The signed invoice will not be required if the towing company has a written contract to tow for the individual during specified hours;
- d. itemized fees for service;
- e. the date the vehicle was released;

3.a. - c. ...

B. - D. ...

E. Towing services must make business records available for inspection upon request by law enforcement officers, and shall provide copies upon request, which information shall be confidential and shall not be released or deemed a public record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1731.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), amended LR 19:502 (April 1993), amended LR 26:348 (February 2000).

§1941. Storage Procedures

A. ...

B. All licensees shall employ reasonable safeguards and procedures so that all personal belongings and contents in the vehicle are intact and returned to the vehicles owner or agent upon release of the vehicle. Movable personal items shall not purposely be kept until payment is rendered. These items will be released to the owner upon request if there is no police hold on them.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1731.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), amended LR 26:348 (February 2000).

§1945. Storage Rates

A. - C. ...

D. The daily storage fee shall be the only fee charged by the storage facility during storage of a vehicle. There shall be no additional charges for locating the vehicle in the storage facility, viewing of the vehicle, photography of the vehicle, removal of items from the vehicle, or for any other similar activity which does not require towing or moving of

the vehicle during regular business hours. A towing or storage company that assesses gate fees shall not assess such fees in an amount in excess of \$45.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1731.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), amended LR 19:502 (April 1993), amended LR 26:348 (February 2000).

§1949. Owner Notification of a Stored Vehicle

A. - B. ...

C. Administrative Fees

1. Towing Services may charge the registered owner/lien holder those administrative costs incurred by filing of the official report of stored vehicle card with the Office of Motor Vehicles along with any postal charges related to the mailing of the official report of stored vehicle card or certified letters to the registered owner/lien holder.

2. All costs must be documented with receipts which shall be made available to the registered owner/lien holder upon demand. Failure to comply will result in the forfeiture of all administrative costs, towing, and storage fees.

3. The maximum administrative fee that may be charged for filing of the official report of stored vehicle card shall be \$20 for in-state notifications and \$25 for out-of-state notifications. The maximum administrative fee that may be charged for mailing certified letters to the registered owner/lienholder shall be \$6 dollars per letter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1731.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), amended LR 26:348 (February 2000).

§1969. Recovery of Civil Penalties

A. To enforce the collection of a civil penalty levied after due process upon a person determined by the Deputy Secretary of the Department of Public Safety and Corrections to have committed an act that is a violation of R.S. 32:1711 et seq., or adopted and promulgated regulations as provided in this Chapter, the deputy secretary:

1. may order the removal of the offending vehicle's license tag if the registration is from this state:

2. may seize any vehicle not registered within the state which is owned by the person or company in violation:

3. may have the driver's or owner's operator's license suspended for a violation(s) committed by the driver or operator.

B. The Deputy Secretary shall enforce the provisions of Subsection A as follows.

1. The removal of a vehicle's license tag shall be completed any upon remittance of the levied penalty, reinstated in a manner consistent with the procedures required by the Office of Motor Vehicles.

2. When the person or company fails to remit a levied civil penalty within 90 days subsequent to the seizure of a vehicle as authorized in this section, the Department of Public Safety and Corrections shall collect the penalty in a manner consistent with applicable law.

3. The suspension of a driver's or owner's license shall be completed and upon remittance of the levied penalty, reinstated in a manner consistent with the procedures required by the Office of Motor Vehicles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1711 through R.S. 32:1731.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 15:1097 (December 1989), amended LR 26:348 (February 2000).

Nancy Van Nortwick
Undersecretary

0002#094

RULE

**Department of Social Services
Office of Family Support**

Family Independence Temporary Assistance Program (FITAP) Time Limits (LAC 67:III.1203, 1209, 1247)

The Department of Social Services, Office of Family Support, has amended the *Louisiana Administrative Code*, Title 67, Part III, Subpart 2, the Family Independence Temporary Assistance Program (FITAP).

Pursuant to the authority granted to the Department by the Louisiana Temporary Assistance to Needy Families Block Grant, the agency has amended §1203 and §1209 to include changes necessary to FITAP as a result of the Kinship Care Subsidy Program.

In addition, the agency has added another exception to the 24-month time-limit provision for the parent that is employed and entitled to the \$900 disregard.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 2. Family Independence Temporary Assistance Program (FITAP)

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter A. Application, Determination of Eligibility, and Furnishing Assistance

§1203. Standard Filing Unit

The mandatory filing unit includes the child, the child's siblings (including half and step-siblings) and the parents (including legal stepparents) of any of these children living in the home. In the case of the child of a minor parent, the filing unit shall include the child, the minor parent, the minor parent's siblings (including half and step) and the parents of any of these children living in the home. Supplemental Security Income (SSI) recipients and children receiving Kinship Care Subsidy Payments may not be included in the filing unit.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, amended LR 26:349 (February 2000).

§1209. Notices of Adverse Actions

A. - A.13. ...

14. the child is certified for Kinship Care Subsidy Payments.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, amended LR 26:349 (February 2000).

§1247. Time Limits

A. - B.6. ...

7. the parent is employed and entitled to the \$900 disregard.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.6, R.S. 46:460.5(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, amended LR 26:349 (February 2000).

J. Renea Austin-Duffin
Secretary

0002#114

RULE

**Department of Social Services
Office of Family Support**

Food Stamp Program Categorical Eligibility (LAC 67:III.1987)

The Department of Social Services, Office of Family Support, has amended the *Louisiana Administrative Code*, Title 67, Part III, Subpart 3, Food Stamps.

Pursuant to Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act, and subsequent interpretations and directives regarding 7 CFR 273.2(j) which allow the state flexibility and discretion as to which individuals may be considered categorically eligible for food stamps, the agency has amended §1987 to expand categorical eligibility to include households in which one member receives cash benefits from the Louisiana TANF Block Grant or all members receive SSI. The agency also revised the section to remove references to monthly reporting requirements and the General Assistance Program, both of which are obsolete.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter J. Determining Household Eligibility and Benefit Level

§1987. Categorical Eligibility for Certain Recipients

A. Households Considered Categorically Eligible

1. Households in which a member is a recipient of benefits from the FITAP, FIND Work and/or Kinship Care Subsidy Programs, and households in which all members are recipients of SSI, shall be considered categorically eligible for food stamps.

2. "Recipient" includes an individual determined eligible for TANF or SSI benefits, but the benefits have not yet been paid.

3. "Recipient" shall also include a person determined eligible to receive zero benefits, i.e., a person whose benefits are being recouped or a TANF recipient whose benefits are

less than \$10 and therefore does not receive any cash benefits.

4. A household shall not be considered categorically eligible if:

- a. any member of that household is disqualified for an intentional program violation;
- b. the household is disqualified for failure to comply with the work registration requirements.

5. The following persons shall not be considered a member of a household when determining categorical eligibility:

- a. an ineligible alien;
- b. an ineligible student;
- c. an institutionalized person.

6. Households which are categorically eligible are considered to have met the following food stamp eligibility factors without additional verification:

- a. resources;
- b. social security numbers;
- c. sponsored alien information;
- d. residency.

7. These households also do not have to meet the gross and net income limits, but verification of income not counted for TANF/SSI is required (e.g. educational assistance). If questionable, the factors used to determine categorical eligibility shall be verified.

8. Categorically eligible households must meet all food stamp eligibility factors except as outlined above.

9. Changes reported by categorically-eligible Food Stamp households shall be handled according to established procedures except in the areas of resources or other categorical eligibility factors.

10. Benefits for categorically-eligible households shall be based on net income as for any other households. One and two person households will receive a minimum benefit of \$10. Households which meet categorical eligibility requirements but are not eligible for benefits must be certified and handled as if they were eligible for benefits. The household shall be notified that income exceeds the level at which benefits are issued but that they are categorically eligible and certified for participation. The household shall be advised of their reporting requirements.

B. - E. ...

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.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:90 (February 1987), amended LR 12:755 (November 1986), amended by the Department of Social Services, Office of Family Support, LR 18:142 (February 1992), LR 18:686 (July 1992), LR 18:1267 (November 1992), LR 26:349 (February 2000).

J. Renea Austin-Duffin
Secretary

0002#113

RULE

Department of Social Services Office of Family Support

Hearings Kinship Care Subsidy Program
(LAC 67:III.301, 307, 309)

The Department of Social Services, Office of Family Support, has amended the *Louisiana Administrative Code*, Title 67, Part III, Subpart 1, General Administrative.

Pursuant to the authority granted to the Department by the Louisiana Temporary Assistance to Needy Families Block Grant, the agency has amended §301, §307, and §309 to include changes necessary as a result of the proposed Kinship Care Subsidy Program (KCSP).

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 1. General Administration

Chapter 3. Hearings

§301. Definitions

* * *

Benefits are any kind of assistance, payments or benefits made by the agency for the Family Independence Temporary Assistance Program (FITAP), Family Independence Work Program (FIND Work), Kinship Care Subsidy (KCSP), Refugee Cash Assistance (RCA), Food Stamp, or Child Care Assistance (CCAP) Programs.

* * *

Public Assistance Household is a food stamp household in which all members receive FITAP, KCSP, RCA, or federal Supplemental Security Income.

* * *

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:689 (July 1985), amended by the Department of Social Services, Office of Family Support, LR 25:2259 (November 1999), LR 26:350 (February 2000).

§307. Time Limits for Requesting a Fair Hearing

A. When a decision is made on a case, the client is notified and is allowed the following number of days from the date of the notice to request a Fair Hearing:

FITAP	30 days
FIND Work Program	30 days
Kinship Care Subsidy Program	30 days
Child Care Assistance	30 days
Refugee Cash Assistance	30 days
Food Stamps	90 days

The client may appeal at any time during a certification period for a dispute of the current level of benefits.

B. - B.2. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2260 (November 1999), amended LR 26:350 (February 2000).

§309. Time Limits for Decisions to be Rendered

A. A prompt, definitive, and final decision must be provided within the number of days from the date of the Fair Hearing request as listed below:

FITAP	90 days
FIND Work Program	90 days
Kinship Care Subsidy Program	90 days
Child Care Assistance	90 days
Refugee Cash Assistance	90 days
Food Stamps	60 days*

*or 90 days for Public Assistance households simultaneously appealing the same issue in Public Assistance and Food Stamp cases

* * *

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2261 (November 1999), amended LR 26:351 (February 2000).

J. Renea Austin-Duffin
Secretary

0002#115

RULE

**Department of Social Services
Office of Family Support**

**Kinship Care Subsidy Program Implementation
(LAC 67:III.Chapter 53)**

The Department of Social Services, Office of Family Support, has amended the *Louisiana Administrative Code*, Title 67, Part III, to add Subpart 13, the Kinship Care Subsidy Program (KCSP).

Pursuant to R.S. 46:237 which was enacted by the 1999 Louisiana Legislature and which created the Grandparent Subsidy Program, the agency establishes the Kinship Care Subsidy Program (KCSP). This program will enable grandparents and other certain qualified caretaker relatives, other than parents, to receive a cash subsidy for eligible children.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 13. Kinship Care Subsidy Program (KCSP)

Chapter 53. Application, Eligibility, and Furnishing Assistance

Subchapter A. Application, Determination of Eligibility, and Furnishing Assistance

§5301. Application

All individuals applying for Kinship Care Subsidy Program (KCSP) shall be considered applicants for assistance and shall file a written and signed application form under a penalty of perjury. The date the application form is received in the parish office shall be considered the date of application. Applicants for KCSP must apply for

benefits through Family Independence Temporary Assistance Program (FITAP).

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:351 (February 2000).

§5303. Application Time Limit

The time limit for disposition of the application is 30 days from the date on which the signed application is received in the local office. The applicant shall have benefits available through Electronic Benefits Transfer (EBT), or be notified that he has been found ineligible for KCSP by the 30th day, unless an unavoidable delay has occurred.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:351 (February 2000).

§5305. Certification Period and Reapplication

A. Certification periods of a set duration will be assigned. In order to continue to receive benefits, the household must timely reapply and be determined eligible. If the payee fails, without good cause, to keep a scheduled appointment, the case will be closed without further notification. Also, if during the re-application process, a change is reported which results in a determination of ineligibility the case will be closed.

B. The Office of Family Support will require an official reapplication for benefits following a period of ineligibility.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:351 (February 2000).

§5307. Notices of Adverse Actions

A. A notice of adverse action shall be sent at least 13 days prior to taking action to terminate benefits. In some circumstances advance notice is not required. A concurrent notice shall be sent to the client at the time of action in the following situations:

1. the agency has factual information confirming the death of the KCSP payee;
2. the client signs a statement requesting closure and waiving the right to advance notice;
3. the client's whereabouts are unknown and agency mail directed to the client has been returned by the Post Office indicating no known forwarding address;
4. a client has been certified in another state and that fact has been established;
5. a child is removed from the home as a result of a judicial determination, or is voluntarily placed in foster care by his legal guardian;
6. the client has been admitted or committed to an institution;
7. the client has been placed in a skilled or intermediate nursing care facility or long-term hospitalization;
8. the agency disqualifies a household member because of an Intentional Program Violation and benefits are terminated because of the disqualification;
9. the worker ends benefits at the end of a normal period of certification when the client timely reapplies;

10. the case is closed due to the amount of child support collected through Support Enforcement Services.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:351 (February 2000).

§5309. Domestic Violence

A. The secretary shall waive, for as long as necessary, pursuant to a determination of good cause, any public assistance program requirement that will create obstacles for a victim of domestic violence to escape a domestic violence situation, including but not limited to, work, training, or educational requirements; limitations on TANF assistance to noncitizens; child support or paternity establishment cooperation requirements; residency requirements; and any other program requirements which will create obstacles for such victim to escape violence or penalize that victim for past, present, and potential for abuse.

B. Any information obtained pursuant to this Section regarding a victim of domestic violence shall be used solely for the purposes provided for in this Section or for referral to supportive services and shall not be released to any third party, including a governmental agency, unless such agency is authorized to obtain such information by another provision of law.

C. Individuals who allege domestic violence should submit any available evidence to substantiate their claim. If the individual alleging to be a victim of domestic violence is unable to provide documentation to substantiate the claim, the client's statement may be accepted unless there is a reasonable basis to doubt the statement. The worker must continue to attempt to secure the documentation as it becomes available. The documentation may include, but is not limited to:

1. police, government agency or court records;
2. documentation from a shelter worker, legal professional, member of the clergy, medical professional, or other professional from whom the individual has sought assistance in dealing with domestic violence;
3. other corroborating evidence, such as a statement from any other individual with knowledge of the circumstances which provide the basis for the claim;
4. physical evidence of domestic violence; or
5. other evidence which supports the statement.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:352 (February 2000).

Subchapter B. Conditions of Eligibility

§5321. Age Limit

A. A dependent child must be:

1. under 16 years of age; or
2. sixteen to 19 years of age either in school and working toward a high school diploma, GED, or special education certificate or participating in the FIND Work Program.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:352 (February 2000).

§5323. Citizenship

A. Each KCSP recipient must be a United States Citizen or a qualified alien. A qualified alien is:

1. an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act;
2. an alien who is granted asylum under Section 208 of such Act;
3. a refugee who is admitted to the United States under Section 207 of such Act;
4. an alien who is paroled into the United States under Section 212(d)(5) of such Act for a period of at least one year;
5. an alien whose deportation is withheld under §243(h) of such Act (as in effect immediately before the effective date of §307 of Division C of Public Law 104-208) or §241(b)(3) of such Act (as amended by Section 305(a) of Division C of Public Law 104-208);
6. an alien who is granted conditional entry pursuant to §203(a)(7) of such Act as in effect prior to April 1, 1980;
7. an alien who is a *Cuban* or *Haitian* entrant, as defined in §501(e) of the Refugee Education Assistance Act of 1980;
8. an alien who has been battered or subjected to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse's or parent's family residing in the same household as the alien if the spouse or parent consented to, or acquiesced in, such battery or cruelty. The individual who has been battered or subjected to extreme cruelty must no longer reside in the same household with the individual who committed the battery or cruelty. The agency must also determine that a substantial connection exists between such battery or cruelty and the need for the benefits to be provided. The alien must have been approved or have a petition pending which contains evidence sufficient to establish:
 - a. the status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of §204(a)(1)(A) of the Immigration and Nationality Act (INA); or
 - b. the classification pursuant to clause (ii) or (iii) of Section 204(a)(1)(B) of the INA; or
 - c. the suspension of deportation and adjustment of status pursuant to §244(a)(3) of the INA; or
 - d. the status as a spouse or child of a United States citizen pursuant to clause (i) of §204(a)(1)(A) of the INA, or classification pursuant to clause (i) of Section 204(a)(1)(B) of the INA.
9. an alien child of a battered parent or the alien parent of a battered child as described in 8 above.

B. Time-limited Benefits. A qualified alien who enters the United States on or after August 22, 1996 is ineligible for five years from the date of entry into the United States unless:

1. the alien is admitted to the United States as a refugee under Section 207 of the Immigration and Nationality Act;
2. the alien is granted asylum under Section 208 of such Act;
3. the alien's deportation is withheld under §243(h) of such Act (as in effect immediately before the effective date of §307 of Division C of Public Law 104-208) or §241(b)(3) of such Act (as amended by §305(a) of Division C of Public Law 104-208);

4. the alien is a *Cuban* or *Haitian* entrant as defined in Section 501(e) of the Refugee Education Assistance Act of 1980;

5. the alien is an *Amerasian* immigrant admitted pursuant to Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988;

6. the alien is lawfully residing in the United States and is a *veteran* (as defined in Sections 101, 1101, or 1301, or as described in §107 of Title 38, *United States Code*) who is honorably discharged for reasons other than alienage and who fulfills the minimum active-duty service requirements of §5303A(d) of Title 38, *United States Code*, his spouse or the unremarried surviving spouse if the marriage fulfills the requirements of 1304 of Title 38, *United States Code*, and unmarried dependent children; or

7. the alien is lawfully residing in the United States and is on active duty (other than for training) in the Armed Forces and his spouse or the unremarried surviving spouse if the marriage fulfills the requirements of §1304 of Title 38, *United States Code* and unmarried dependent children.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:352 (February 2000).

§5325. Enumeration

Each applicant for or recipient of KCSP is required to furnish a Social Security number or to apply for a Social Security number if such a number has not been issued or is not known.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:353 (February 2000).

§5327. Living in the Home of a Qualified Caretaker Relative

A. A child must reside in the home of a qualified caretaker relative who is responsible for the day to day care of the child and who has legal custody or guardianship of the child. The child's parents may not reside in the home. Benefits will not be denied when the qualified caretaker relative or the child is temporarily out of the home. Good cause must be established for a temporary absence of more than 45 days. The following relatives are qualified caretaker relatives:

1. grandfather or grandmother (extends to great-great-great);
2. step-grandfather or step-grandmother (extends to great-great-great);
3. brother or sister (including half-brother and half-sister);
4. uncle or aunt (extends to great-great);
5. first cousins (including first cousins once removed);
6. nephew or niece (extends to great-great);
7. stepbrother or stepsister.

These may be either biological or adoptive relatives.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:353 (February 2000).

§5329. Income

A. Income is any gain or benefit to a household that has monetary value and is not considered a resource. Count all income in determining pretest eligibility except income from:

1. adoption assistance;
2. earned income of a child who is in school and working toward a high school diploma, GED, or special education certificate;
3. disaster payments;
4. Domestic Volunteer Service Act;
5. Earned Income Credits (EIC);
6. education assistance;
7. energy assistance;
8. foster care payments;
9. monetary gifts up to \$30 per calendar quarter;
10. Agent Orange Settlement payments;
11. HUD payments or subsidies other than those paid as wages or stipends under the HUD Family Investment Centers Program;
12. income in-kind;
13. Indian and Native Claims and Lands;
14. irregular and unpredictable sources;
15. lump sum payments;
16. nutrition programs;
17. job training income that is not earned;
18. relocation assistance;
19. a bona fide loan which is considered bona fide if the client is legally obligated or intends to repay the loan;
20. Wartime Relocation of Civilians Payments;
21. Developmental Disability Payments;
22. Delta Service Corps post-service benefits paid to participants upon completion of the term of service if the benefits are used as intended for higher education, repayment of a student loan, or for closing costs or down payment on a home;
23. Americorps VISTA payments to participants (unless the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage);
24. Radiation Exposure Compensation Payments;
25. payment to victims of Nazi persecution; or
26. restricted income received for a person not in the income unit. Restricted income is income which is designated specifically for a person's use by federal statute or court order and may include RSDI, VA benefits and court ordered-support payments.

B. Pretest

1. In order to meet this requirement, the gross countable income of the caretaker relative's KCSP income unit must be less than 150 percent of the federal poverty threshold for the family size.

2. For purposes of this pretest, the caretaker's KCSP income unit is defined to include:

- a. the child; and
- b. the caretaker relative; and
- c. anyone residing in the home for whom the caretaker relative claims financial responsibility.

3. For purposes of this pretest, income is defined as countable income belonging to any member of the KCSP income unit.

C. Income after pretest

1. The child is determined eligible for KCSP if the child's countable income is less than \$172. If the child's countable income is \$172 or more the child is ineligible.

D. Payment Amount

1. Payment amount is \$172 a month for each eligible child.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:353 (February 2000).

§5331. Immunization

Failure to follow the schedule of immunizations as promulgated by the Louisiana Office of Public Health for any child under 18 years of age, without good cause, shall result in the child's ineligibility for the KCSP subsidy until the child has received the required immunizations, or in the case of an immunization that requires a series of injections, has begun to receive the injections. No person is required to comply with this provision if that person or his/her qualified caretaker relative submits a written statement from a physician stating that the immunization procedure is contraindicated for medical reasons, or if the person or his/her qualified caretaker relative objects to the procedure on religious grounds.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:354 (February 2000).

§5333. Residency

KCSP recipients must reside in Louisiana with intent to remain.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:354 (February 2000).

§5335. School Attendance

A. At redetermination a school-age child who has missed more than 15 days of school without good cause during the previous six-month period shall be placed in a probationary status. School-age, for purposes of this requirement, is defined as a child who is age 7 through 16. If, however, a child starts school at the kindergarten level before age 7, he is considered to be a school-age child at the point he starts kindergarten. If during the probationary period a child is absent from school for more than 3 days in a given calendar month without good cause, the child will be ineligible for the KCSP subsidy until documentation that the child's attendance meets the requirements is provided.

B. A child age 17 or 18 is eligible to receive assistance if attending school and working toward a high school diploma, GED, or special education certificate, or participating in or exempt from the FIND Work Program.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:354 (February 2000).

§5337. Assignment of Support Rights and Cooperation with Support Enforcement Services

A. Assignment of Support Rights

1. Each applicant for, or recipient of, KCSP is required to assign to the Louisiana Department of Social Services, Office of Family Support, any accrued rights to support for any other person that such applicant or recipient may have, including such rights in his own behalf or in behalf of any other family member for whom the applicant or recipient is applying for or receiving.

2. By accepting KCSP for, or on behalf of, a child or children, the applicant or recipient shall be deemed to have made an assignment to the department of any and all right, title, and interest in any support obligation and arrearage owed to, or for, such child or children or caretaker up to the amount of public assistance money paid for, or on, behalf of such child or children or caretaker for such term of time as such public assistance monies are paid; provided, however, that the department may thereafter continue to collect any outstanding debt created by such assignment which has not been paid by the responsible person. The applicant or recipient shall also be deemed, without the necessity of signing any document, to have appointed the Support Enforcement Services Program administrator as his or her true and lawful attorney-in-fact to act in his or her name, place, and stead to perform the specific act of endorsing any and all drafts, checks, money orders or other negotiable instruments representing support payments which are received on behalf of such child or children or caretaker as reimbursement for the public assistance monies paid to such applicant or recipient.

B. Cooperation with Support Enforcement Services

1. Each applicant for, or recipient of, KCSP is required to cooperate in identifying and locating the parent of a child with respect to whom aid is claimed, establishing the paternity of a child born out of wedlock with respect to whom aid is claimed, obtaining support payments for such applicant or recipient and for a child with respect to whom aid is claimed, and obtaining any other payment or property due such applicant or recipient unless good cause is established.

2. Good cause exists when:

- a. the client's cooperation with Support Enforcement Services is reasonably anticipated to result in physical or emotional harm to the child or caretaker relative which reduces his capacity to care for the child adequately;
- b. the child was conceived as a result of incest or rape;
- c. legal proceedings for adoption are pending before a court; or
- d. the client is being assisted by a licensed or private social agency to resolve the issue of whether to keep the child or relinquish him for adoption. The issue must not have been under discussion more than three months.

3. Failure to cooperate in establishing paternity or obtaining child support will result in denial or termination of cash assistance benefits.

4. Failure to cooperate includes, but is not limited to, the following instances where good reason for failing to cooperate has not been established by the IV-D office:

- a. failure to keep two consecutive appointments;
- b. failure or refusal to cooperate at an interview;
- c. failure to appear for, or cooperate during a court date or genetic testing.

5. The payee or recipient who has failed to cooperate will be notified in writing of the sanctioning. The payee or recipient's desire or intention to cooperate will not preclude case closure.

C. In any case in which child support payments are collected for a recipient of KCSP with respect to whom an assignment is in effect, such amount collected will be counted as income to determine eligibility.

D. Written notice will be provided to the Child Support Enforcement Agency of all relevant information prescribed by that agency within two days of the furnishing of KCSP.

E. Louisiana must have in effect a plan approved under Part D of Title IV of the Social Security Act and operate a child support program in conformity with such plan.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:354 (February 2000).

§5339. Parenting Skills Education

As a condition of eligibility for KCSP benefits any child under age 19 who is a parent must attend a parenting skills education program provided by the Office of Family Support or provide proof of attendance of this type of training provided by another recognized agency or source. Failure to meet this requirement without good cause shall result in ineligibility for KCSP. Ineligibility will continue until compliance is demonstrated.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:355 (February 2000).

§5341. Drug Screening, Testing, Education and Rehabilitation Program

A. Compliance. All recipients of KCSP benefits, age 18 and over, must satisfactorily comply with the requirements of the drug screening, testing, education and rehabilitation process.

B. Screening and Referral Process. All applicants for and recipients of KCSP age 18 and over will be screened for the use of or dependency on illegal drugs at initial application and redetermination of eligibility using a standardized drug abuse screening test approved by the Department of Health and Hospitals, Office for Addictive Disorders (OAD). An illegal drug is a controlled substance as defined in R.S. 40:961 et seq. - Controlled Dangerous Substance.

1. When the screening process indicates that there is a reason to suspect that a recipient is using or dependent on illegal drugs, or when there is other evidence that a recipient is using or dependent on illegal drugs, the caseworker will refer the recipient to OAD to undergo a formal substance abuse assessment which may include urine testing. The referral will include a copy of the screening form, a copy of the Release of Information Form, and a photograph of the individual for identification purposes.

2. Additionally, if at any time OFS has reasonable cause to suspect that a recipient is using or dependent on illegal drugs based on direct observation or if OFS judges to

have reliable information of use or dependency on illegal drugs received from a reliable source, the caseworker will refer the recipient to OAD to undergo a formal substance abuse assessment which may include urine testing. All such referrals will require prior approval by the supervisor of the caseworker.

3. OAD will advise OFS of the results of the formal assessment. If the formal assessment determines that the recipient is not using or dependent on illegal drugs, no further action will be taken unless subsequent screening or other evidence indicates a reasonable suspicion of illegal drug dependency or use. If the formal assessment determines that the recipient is using or dependent on illegal drugs, OAD will determine the extent of the problem and recommend the most appropriate and cost-effective method of education and rehabilitation. The education or rehabilitation plan will be provided by OAD or by a contract provider and may include additional testing and monitoring. The OAD assessment will include a determination of the recipient's ability to participate in activities outside of the rehabilitation program.

C. If inpatient treatment is recommended by OAD and the recipient is unable to arrange for the temporary care of dependent children, OFS and/or OAD will coordinate with the Office of Community Services to arrange for the care of such children.

D. Failure to Cooperate. Failure or refusal of a recipient to participate in drug screening, testing, or participation in the education and rehabilitation program, without good cause, will result in ineligibility of the recipient until he/she cooperates. Cooperation is defined as participating in the component in which the recipient previously failed to cooperate. This includes drug screening, drug testing, or satisfactory participation for two weeks in an education and rehabilitation program.

E. If after completion of education and rehabilitation, the recipient is subsequently determined to use or be dependent on illegal drugs, the recipient will be ineligible for KCSP benefits until such time that OAD determines that the individual has successfully completed the recommended education and rehabilitation program and is drug free.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:355 (February 2000).

§5343. Fleeing Felons and Probation/Parole Violators

A. No cash assistance shall be provided to a person fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the state from which the individual flees. This does not apply with respect to the conduct of an individual, for any month beginning after the President of the United States grants a pardon with respect to the conduct.

B. No cash assistance shall be provided to a person violating a condition of probation or parole imposed under federal or state law. This does not apply with respect to the conduct of an individual, for any month beginning after the President of the United States grants a pardon with respect to the conduct.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:355 (February 2000).

§5345. Individuals Convicted of a Felony Involving a Controlled Substance

An individual convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction involved and which has as an element the possession, use, or distribution of a controlled substance (as defined in Section 102(6) of the Controlled Substances Act, 21 U.S.C. 802[6]) shall be disqualified from receiving KCSP for a period of one year commencing on the date of conviction if an individual is not incarcerated, or from the date of release from incarceration if the individual is incarcerated. This shall apply to an offense which occurred after August 22, 1996.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:356 (February 2000).

Subchapter C. Recovery

§5385. IV-D Recovery of Support Payments

A. When assigned child support payments are received and retained by the KCSP applicant/recipient, responsibility is placed with the IV-D agency (Child Support Enforcement Services) to recover all such payments. The only exception is a direct payment retained by the recipient during the period when the sanction for failure to cooperate is in effect.

B. In providing for this policy the IV-D staff must:

1. document that the recipient has received and retained direct payments, and the amounts;

2. provide a written notice of intent to recover the payments to the recipient including:

a. an explanation of the recipient's responsibility to cooperate by turning over direct payments as a condition of eligibility for KCSP, and a sanction for failure to cooperate as provided at 45 CFR 232.12(d);

b. a detailed list of the direct payments as documented by IV-D, including dates and amounts of payments and description of documentary evidence possessed by IV-D;

c. a proposal for a repayment agreement related to the recipient's income and resources including the KCSP grant and the total amount of retained support;

d. providing the opportunity for the recipient to have an informal meeting to clarify his responsibilities and to resolve any differences regarding repayment.

C. The IV-D Agency (Child Support Enforcement Services) must refer the case to IV-A (KCSP) with evidence of failure to cooperate if the recipient refuses to sign a repayment agreement or signs an agreement but subsequently fails to make a payment. IV-D must also notify IV-A if a recipient later consents to an agreement or if the recipient who defaulted on the agreement begins making regularly scheduled payments.

D. To recover amount due from any period of default, the IV-D Agency (Child Support Enforcement Services) must extend the duration of the agreement.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:356 (February 2000).

J. Renea Austin-Duffin
Secretary

0002#121

RULE

Department of Social Services Office of Family Support

Support Enforcement Income Assignment (LAC 67:III.2509)

The Department of Social Services, Office of Family Support, has amended the *Louisiana Administrative Code*, Title 67, Part III, Subpart 4, Support Enforcement Services (SES), the child support enforcement program.

Pursuant to R.S. 46:236.3, the agency has amended regulations redefining the types of income available for assignment and increasing the processing fee which the payor of income may include as a deduction to the noncustodial parent's income assignment. The agency neglected to update §2509 at the time of 1997 and 1998 legislative actions.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 4. Support Enforcement Services

Chapter 25. Support Enforcement

Subchapter B. Support Obligation

§2509. Income Assignment

A. In all new or modified child support orders enforced by SES, the court shall order an immediate income assignment unless a written agreement exists between the parties for an alternate arrangement, or the court finds good cause not to require an immediate income assignment. Employers shall remit any amounts withheld through income assignment within seven days.

B. In any case in which SES is providing services, if not previously subject to income assignment, the order shall become subject to withholding, if arrearages occur, without the need for a judicial or administrative hearing. Orders enforced by SES will be subject to withholding without advance notice to the obligor. The payor of income is notified to withhold an amount for current support plus an additional amount, determined by SES toward any arrears owed. The amount subject to be withheld cannot exceed the percentage of disposable income as defined in R.S. 13:3881 or the federal wage garnishment.

C. The forms of income available for assignment include any singular or periodic payment to an individual regardless of source, including but not limited to, wages, salary, interest, commission, independent contractor compensation, disability income, unemployment compensation, worker's compensation, bonuses, judgments, settlements, annuity and retirement benefits, and any other payments made by any person, private entity, federal, or state government, any unit of local government, school district, or any entity created by public act.

D. The payor of income may deduct a \$5 processing fee from the noncustodial parent's income each pay period during which the income assignment order is in effect. If the payor of income discharges, disciplines, or otherwise penalizes a person ordered to pay support because of the duty to withhold income, the payor of income may be liable for the accumulated amount or be subjected to other sanctions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:236.3 and 45 CFR 303.100, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:1083 (November 1985), amended by the Department of Social Services, Office of Eligibility Determinations, LR 15:809 (October 1989), LR 16:33 (January 1990), amended by the Office of Family Support LR 23:748 (June 1997), LR 26:356 (February 2000).

J. Renea Austin-Duffin
Secretary

0002#101

RULE

**Department of Transportation and Development
Office of Weights and Measures**

**Minimum Standards for Reflective Sign Sheeting
(LAC 73:III.301)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Transportation and Development hereby amends Section 301 of the rule entitled Minimum Standards for Reflectivity of Work-Site Materials, in accordance with R.S. 48:35.

Title 73

**DEPARTMENT OF TRANSPORTATION AND
DEVELOPMENT**

Part III. Weights and Measures

**Chapter 3. Minimum Standards for Reflectivity of
Work-Site Materials**

**§301. Minimum Standards for Reflective Sign
Sheeting**

A. Reflective sheeting shall be one of the following types as specified on the plans and conforming to ASTM D 4956 except as modified herein. The sheeting shall be an approved product listed in QPL 13.

1. Type I-A medium-intensity retroreflective sheeting referred to as "engineering grade" and typically enclosed lens glass-bead sheeting.

2. Type II-A medium-high-intensity retroreflective sheeting sometimes referred to as "super engineering grade" and typically enclosed lens glass-bead sheeting.

3. Type III-A high intensity retroreflective sheeting, that is typically encapsulated glass-bead retroreflective material.

4. Type VI-An elastomeric-high-intensity retroreflective sheeting without adhesive. This sheeting is typically a vinyl microprismatic retroreflective material.

5. DOTD Type VII-A super-intensity retroreflective sheeting having high retroreflectivity values at wide entrance angles of +45E and +60E. This sheeting is typically an

unmetallized microprismatic retroreflective element material.

6. DOTD Type VIII-A super-intensity retroreflective sheeting having optimized performance over a broad range of observation angles. This sheeting is typically an unmetallized microprismatic retroreflective element material.

B. Adhesive Classes. The adhesive required for retroreflective sheeting shall be Class 1 (pressure sensitive) or Class 2 (heat activated) as specified in ASTM D 4956.

C. Identification Marks. Type II sheeting shall be distinguished by integral identification marks that cannot be removed or affected by physical or chemical methods without causing damage to the sheeting. The markings shall be inconspicuously placed on 12-inch centers and shall be visible from a distance of not more than 3 feet.

D. Alternate Sheeting Types

1. DOTD Type VII-Minimum Coefficient of Retroreflection shall be as specified in Table 1015-1. Luminance Factor shall be as specified in Table 1015-2.

Table 1015-1 DOTD Type VII Sheeting^a

Observation Angle	Entrance Angle	White	Yellow	Red	Blue	Green	Orange	Flour Orange
0.2°	-4°	800	660	21	43	80	300	200
				5				
0.2°	+30°	400	340	10	20	35	150	120
				0				
0.2°	+45°	145	85	25	7.6	12	50	50
0.2°	+60°	35	23	6.6	1.0	2.0	10	10
0.5°	-4°	200	160	45	9.8	20	100	80
0.5°	+30°	100	85	26	5.0	10	50	50
0.5°	+45°	75	60	18	2.8	6.0	20	20
0.5°	+60°	30	20	6.4	2.0	2.0	10	6.0

^aMinimum Coefficient of Retroreflection (R_A)(cdlx⁻¹m⁻²)

**Table 1015-2 Luminance Factor (Y%)
(Daytime Luminance)**

Color	Minimum	Maximum
White	40	--
Yellow	24	45
Red	3.0	15
Blue	1.0	10
Green	3.0	9.0
Orange	12	30
Florescent Orange	30	--

2. DOTD Type VIII-Minimum Coefficient of Retroreflection shall be as specified in Table 1015-3. Luminance Factor shall be as specified in Table 1015-2.

Table 1015-3 DOTD Type VIII Sheeting^a

Observation Angle	Entrance Angle	Rotation Angle	White	Yellow	Red	Blue	Green
0.20E	-4E	0E	430	350	70	20	45
0.33E	-4E	0E	300	250	53	15	33
0.50E	-4E	0E	250	200	46	10	25
1.00E	-4E	0E	80	65	14	4.0	10
0.20E	30E	0E	235	190	39	11	24
0.33E	30E	0E	150	130	25	7.0	18
0.50E	30E	0E	170	140	25	7.0	19
1.00E	30E	0E	50	40	11	2.5	5.0
0.20E	40E	90E	150	125	25	6.0	15
0.33E	40E	90E	85	75	14	4.0	8.0
0.50E	40E	90E	35	30	4.0	1.5	3.5
1.00E	40E	90E	20	13	5.0	0.7	2.0

^aMinimum Coefficient of Retroreflection (R_A)(cdlx⁻¹m⁻²)

E. Accelerated Weathering. Reflective sheeting, when processed, applied and cleaned in accordance with the manufacturer's recommendations shall perform in accordance with the accelerated weathering standards in Table 1015-4a.

Table 1015-4a Accelerated Weathering Standards⁵

Type	Retroreflectivity ¹			Colorfastness ³		
	Orange		All colors, except orange		Orange	All colors, except orange
I	Not used		2 years	50 ⁴	Not used	2 Years
II	1 Year	70 ⁵	Not used		1 Year	3 Years
III	1 Year	70 ⁶	3 Years	80 ⁶	1 Year	3 Years
III (for drums)	1 Year	70 ⁶	1 Year	80 ⁶	1 Year	1 Year
VI	1/2 Year	50	1/2 Year	50	1/2 Year	1/2 Year
DOTD Type VII	1 Year	50 ⁷	Not Used		1 Year	Not used
DOTD Type VIII	Not used		3 Years	80 ⁸	Not used	3 Years

¹Percent retained retroreflectivity of referenced table after the outdoor test exposure time specified.

²At an angle of 45E from the horizontal and facing south in accordance with ASTM G7.

³Colors shall conform to the color specification limits of ASTM D4956 after the outdoor test exposure time specified.

⁴ASTM D4956, Table 1.

⁵ASTM D4956, Table 3.

⁶ASTM D4956, Table 4.

⁷DOTD Table 1015-1.

⁸DOTD Table 1015-3.

F. Performance. Reflective sheeting for signs, when processed, applied and cleaned in accordance with the manufacturer's recommendations shall perform outdoors in accordance with the performance standards in Table 1015-4b.

Table 1015-4b Performance Standards of Installed Sign Sheeting

Type	Retroreflectivity ¹ - Durability ²			Colorfastness ³	
	Orange		All colors, except orange		
I	Not used		7 years	40 ⁴	3 Years
II	3 Years	70 ⁵	Not used		3 Years
III	3 Years	70 ⁶	10 Years	70 ⁶	3 Years
DOTD Type VII	3 Years	50 ⁷	Not Used		3 Years
DOTD Type VIII	Not used		7 Years	50 ⁸	3 Years

¹Percent retained retroreflectivity of referenced table after installation and the field exposure time specified.

²All sheeting shall maintain its structural integrity, adhesion and functionality after installation and the field exposure time specified.

³All colors shall conform to the color specification limits of ASTM D4956 after installation and the field exposure time specified.

⁴ASTM D4956, Table 1.

⁵ASTM D4956, Table 3.

⁶ASTM D4956, Table 4.

⁷DOTD Table 1015-1.

⁸DOTD Table 1015-3.

G. Sheeting Guaranty. The contractor shall provide the Department with a guaranty from the sheeting manufacturer stating that if the retroreflective sheeting fails to conform to the performance requirements of this subsection, the sheeting manufacturer shall do the following:

Table 1015-4c Manufacturer's Guaranty

Type	Manufacturer shall restore the sign face in field location to its original effectiveness at no cost to the Department if failure occurs during the time period ¹ specified below.		Manufacturer shall furnish the sheeting required to restore the sign face to its original effectiveness at no cost to the Department if failure occurs during the time period ¹ specified below.
	Orange	All colors, except orange	All colors, except orange
I	Not used	<5 years	5-7 years
II	<3 years	<5 years	5-10 years
III	<3 years	<7 years	7-10 years
DOTD Type VII	<3 years	Not used	Not used
DOTD Type VIII	Not used	<5 years	5-7 years

¹From the date of sign installation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights and Measures LR 24:703 (April 1998), amended LR 25:1765 (September 1999), LR 26:357 (February 2000).

Kam K. Movassaghi, Ph.D., P.E.
Secretary

0002#095

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences Advisory Commission on Pesticides

Pesticide Restrictions (LAC 7:XXIII.143)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Department of Agriculture and Forestry, Advisory Commission on Pesticides, proposes to amend regulations regarding applications of certain pesticides in certain parishes.

The Department of Agriculture and Forestry, Advisory Commission is proposing to amend these rules and regulations for the purpose of adding Wards 1 and 6 of St. Landry Parish so that certain pesticides shall not be applied by commercial applicators between March 15 and September 15.

These rules comply with and are enabled by LA-R.S. 3:3203 and R.S. 3:3223.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticides

Chapter 1. Advisory Commission on Pesticides

Subchapter I. Regulations Governing Application of Pesticides

§143. Restrictions on Application of Certain Pesticides

A. - B.15. ...

C. The pesticides listed in §143.B shall not be applied by commercial applicators between March 15 and September 15 in the following parishes:

- | | |
|-------------------------------|-------------------------------------|
| 1. Avoyelles | 14. Madison |
| 2. Bossier | 15. Morehouse |
| 3. Caddo | 16. Natchitoches |
| 4. Caldwell | 17. Ouachita |
| 5. Catahoula | 18. Pointe Coupee, Ward 2 |
| 6. Claiborne, Ward 4 | 19. Rapides |
| 7. Concordia | 20. Red River |
| 8. DeSoto, Ward 7 | 21. Richland |
| 9. East Carroll | 22. St. Landry, Wards 1, 4, 5 and 6 |
| 10. Evangeline, Wards 1 and 5 | 23. Tensas |
| 11. Franklin | 24. Union |
| 12. Grant | 25. West Carroll |
| 13. LaSalle | 26. Winn, Ward 7 |

D. - M.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:193 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), amended LR 19:791 (September 1993), LR 21:668 (July 1993), LR 21:668 (July 1995), LR 24:281 (February 1998), LR 24:2076 (November 1998), LR 26:

Interested persons should submit written comments on the proposed rules to Bobby Simoneaux through the close of business on March 27, 2000 at 5825 Florida Blvd., Baton Rouge, LA 70806. A public hearing will be held on these rules on March 27, 2000 at 9:30 a.m. at the address listed above. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at the hearing. No preamble regarding these rules is necessary.

Family Impact Statement

The proposed amendments to rule XXIII.143 regarding applications of certain pesticides in certain parishes 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 there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. 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.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Pesticide Restrictions

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

There will be no implementation costs or savings to state or local governmental units. The Department of Agriculture and Forestry intends to amend the rules and regulations for the purpose of adding Wards 1 and 6 of St. Landry Parish so that certain pesticides shall not be applied by commercial applicators between March 15 and September 15.

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

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

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

There will be no costs and/or economic benefits to directly affected persons or nongovernmental groups. This rule change is intended to make the Department's rule consistent with current practice.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

There will be no estimated effect on competition and employment.

Skip Rhorer Robert E. Hosse
Assistant Commissioner General Government Section Director
0002#120 Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Division of Small and Emerging Business Development**

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

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, hereby proposes for the following amendments to its rules relative to the Small and Emerging Business Development Program.

Copies of the draft of these rules are available from the Division of Small and Emerging Business Development office and may be obtained through telephone request by calling (225) 342-5373 or by written request to 339 Florida Blvd., Suite 212, Baton Rouge, LA 70804.

All interested persons are invited to submit written comments on the proposed amendments to the rules and regulations. Such comments should be submitted no later than 5 p.m. on March 31, 2000, to Henry J. Stamper, Executive Director, Division of Small and Emerging Business Development, P.O. Box 44153, Baton Rouge, LA 70804 or to 339 Florida Street, Suite 212, Baton Rouge, LA 70802.

Title 19

CORPORATIONS AND BUSINESS

**Part II. Small and Emerging Business Development
Program**

Chapter 1. General Provisions

§107. Eligibility Requirements for Certification

A. - D.1. ...

2. verification of signatories on business bank accounts;

D.3. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1751, 1752, and 1754.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 23:50 (January 1997), amended LR 24:430 (March 1998), LR 25:1084 (June 1999), LR 26:

§115. Duration of Certification

A. - B. ...

C. When the applicant firm's score on financial measurements per their SIC code published by the *Robert Morris Associates* for liquidity, leverage, operating efficiency, and profitability equals to or better than the national average, the firm will be graduated from the

program if the firm's participation in the program has been less than seven years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1755.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 23:52 (January 1997), LR 26:

**§117. Reports by Certified Small and Emerging
Businesses**

A. - B. ...

C. Notification of Changes. To continue participation, a certified firm shall provide the Division with a written statement of any changes in an address, telephone number, ownership, control, financial status, or major changes in the nature of the operation. Failure to do so may be grounds for termination of eligibility.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1757.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 23:52 (January 1997), LR 26:

Chapter 3. Developmental Assistance Program

§301. Developmental Assistance

A. - B. ...

1. ...

2. Determination of Assistance. In consultation with the business owner, the division's staff will determine areas in which the business owner needs assistance.

3. Referral to Additional Resources. The division will assist the firm in obtaining intensive technical and/or managerial assistance from other resources, such as Small Business Development Centers, Procurement Centers, consultants, business networks, professional business associations, educational institutions, and other public agencies.

4. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 23:53 (January 1997), LR 26:

Chapter 5. Mentor/Protégé Program

§501. General Policy

A. The policy of the state is to implement a Mentor/Protégé program that breaks down barriers and builds capacity of small and emerging businesses, through internal and external practices which include:

1. Tone Setting. Intense and deliberate reinforcement by the governor's office of the state's provision for substantial inclusion of small and emerging businesses in all aspects of purchasing, procurement and contracting;

2. Accountability. Responsibility of each cabinet member and policy administrator to produce self-imposed and specific outcomes within a specified period of time;

3. Partnering. Teaming of Small and Emerging Businesses with businesses who have the capability of providing managerial and technical skills, transfer of competence, competitive position and shared opportunity toward the creation of a mutually beneficial relationship with advantages which accrue to all parties;

4. Capacity Building. Enhancing the capability of small and emerging businesses to compete for public and private sector contracting and purchasing opportunities;

5. Flexibility. Promoting relationships based on need, relative strengths, capability and agreement of the parties within the boundaries of the program objectives of inclusion, impartiality and mutual understanding;

6. Education. Sharing instruction on intent, purpose, scope and procedures of the Mentor/Protégé program with both government personnel at all levels of administration as well as the business community and the general citizenry;

7. Monitoring. Requiring the routine measurement and reporting of important indicators of (or related to) outcome oriented results which stems from the continuing quest for accountability of Louisiana state government;

8. Reporting. Informing the governor's office of self-imposed outcomes via written and quarterly reports as to the progress of intra-departmental efforts by having the secretary of the department and her/his subordinates assist in the accomplishment of the initiative keep records, and coordinate and link with representatives of the Department of Economic Development; and

9. Continuous Improvement. Approach to improving the performance of the Mentor/Protégé operation which promotes frequent, regular and possible small incremental improvement steps on an ongoing basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 23:50 (January 1997), amended LR 26:

§503. Incentives for Mentor Participation

A. Businesses participating as mentors in the Mentor/Protégé Program will be motivated for program participation via program features incorporated in the bid process as well as contracts and or purchase agreements negotiated with the firm. The following features may be instituted by the state of Louisiana to motivate Mentor participation.

1. Preferential Contract Award. The state of Louisiana may institute a system for awarding points to mentor participants which will confer advantages in the bid or selection process for contracting. The evaluation points granted a Mentor/Protégé Program participant will be proportionate to the amount of protégé participation in the project. Evaluation points will be weighted with the same standards as points awarded for quality for product or service; or

2. Performance Incentives. Contracts for goods or services may include a factor for evaluation of performance for the purpose of providing incentives for work performed or deliveries completed ahead of schedule. The incentive for contractors and suppliers who are Mentor/Protégé Program participants shall be not less than 5 percent greater than incentives awarded to firms who are not program participants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:

§505. Incentives for Protégé Participation

A. Businesses participating as proteges will be eligible for the following program benefits:

1. Subcontracting Opportunities. Protégé firms may be eligible for non-competitive subcontracting opportunities with the state and private sector industries.

2. Technical and Developmental Assistance. Protégé firms will be provided technical and developmental assistance provided by Mentors which is expected to build the capacity of the protégé firm to compete successfully for public and private sector opportunities.

3. Networking. The Department of Economic Development will institute a system of networking protégé firms with potential mentors for the purposes of facilitating successful Mentor/Protégé partnerships. SEB firms participating in the program will be included in the Department of Economic Development's protégé source guide, which lists the firm and its capabilities as a sources of information for mentors in the program. Additionally, networking seminars for the purposes of introducing potential mentors and protégés will be held annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:

§507. Guidelines for Participation

A. The Mentor/Protégé Program will be open to participation by any business entity which meets the criteria for participation as outlined below.

1. Mentor Firms:

a. must be capable of contracting with the state;

b. must demonstrate their capability to provide managerial or technical skills transfer or capacity building; and

c. must remain in the program for the period of the developmental assistance as defined in the Mentor/Protégé plan.

2. Protégé Firms:

a. must be a certified Small and Emerging Business with the state of Louisiana Department of Economic Development;

b. must be eligible for receipt of government and private contracts;

c. must graduate from the program within a period not to exceed 7 years or until the firm reaches the threshold of \$750,000 net worth as defined by the SEB certification guidelines.

3. Mentor/Protege Plan:

a. A Mentor/Protege Plan signed by the respective firms shall be submitted to the Department of Economic Development, Division of Small and Emerging Business Development for approval. The plan shall contain a description of the developmental assistance that is mutually agreed upon and in the best developmental interest of the protégé firm.

b. The Mentor/Protege plan shall also include information on the mentor's ability to provide developmental assistance, schedule for providing such assistance, and criteria for evaluating the protégé's developmental success. The plan shall include termination provisions complying

with notice and due process rights of both parties and a statement agreeing to submit periodic report reviews and cooperate in any studies or surveys as may be required by the department in order to determine the extent of compliance with the terms of the agreement.

c. The submitted Mentor/Protégé Agreement shall be reviewed by an Economic Development Small Business Advisor. The Small Business Advisor may recommend to the executive director of the Division of Small and Emerging Business Development acceptance of the submitted Agreement if the agreement is in compliance with the division's Mentor/ Protégé guidelines.

4. Protégé Selection. Selection of the protégé is the responsibility and at the discretion of the mentor. Protégés may be selected from the listing of SEB's provided by the Department of Economic Development, Division of Small and Emerging businesses. A protégé selected from another source or reference must be referred to the Department of Economic Development for certification as an SEB. The protégé must meet the department's guidelines for SEB certification as a condition of the Mentor/Protégé Plan acceptance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:

§509. Measurement of Program Success

A. The overall success of the Mentor/Protégé program will be measured by the extent to which it results in:

1. an increase in the protégé firm's technical and business capability, industrial competitiveness, client base expansion and improved financial stability;

2. an increase in the number and value of contracts, subcontracts and supplier agreements by small and emerging businesses; and

3. the overall enhancement and development of protégé firms as a competitive contractor, subcontractor, or supplier to local, state, federal agencies or commercial markets.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51: 1753.1

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:

§511. Internal Controls

A. The Division of Small and Emerging Business Development will manage the program and establish internal controls to achieve the stated program objectives. Controls will include:

1. reviewing and evaluating Mentor/Protégé agreements for goals and objective;

2. reviewing semi-annual progress reports submitted by mentors and protégés on protégé development to measure protégé progress against the approved agreement;

3. requesting and reviewing periodic reports and any studies or surveys as may be required by the division to determine program effectiveness and impact on the growth,

stability and competitive position of Small and Emerging Businesses in the state of Louisiana; and

4. continuous improvement of the program via ongoing and systematic research and development of program features, guidelines and operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51: 1753.1

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:

§513. Non-performance

A. The Mentor/Protégé Agreement is considered a binding agreement between the parties and the state. Mentors who compete for contract award or purchasing activity and receive evaluation points as program participants are bound, in accordance with the terms of the state contract or purchase order, to fulfill the responsibilities outlined in the approved Mentor/Protégé Agreement as a condition of successful contracting or purchase activity. Protégé who are selected for program participation are bound, in accordance with the terms of their agreement with the Department of Economic Development for continued participation in the program. Failure of the parties to meet the terms of the agreement are considered a violation of contract with liabilities as outlined below.

B. Failure of the mentor to meet the terms of the Mentor/Protégé Agreement will be considered a default of state contract or purchasing agreement and.

C. Failure of the protégé to meet the terms of the Mentor/Protégé Agreement will result in exclusion from future participation in the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:

§515. Conflict Resolution

The state will institute a system for independent arbitration for the resolution of conflicts between mentors and protégé as program participants and/or between program participants and the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 26:

Chapter 9. Small Business Bonding Program

§901. Small Business Bonding Assistance

A.1. - 2. ...

3. Attendance. Attendance is open to only certified or potentially certified small and emerging business construction contractors. However, contractors must register for the institute he or she wishes to attend. Each contractor who successfully completes the LCAI will be issued a certificate of accreditation.

4. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Small and Emerging Business Development, LR 23:53 (January 1997), amended LR 24:430 (March 1998), LR 26:

Henry J. Stamper
Executive Director

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741~~0~~ Louisiana Handbook for School Administrators~~0~~ Character Education Program (LAC 28:1.901)

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Small and Emerging Business Development Program

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

There will be additional cost to the state for this agency to implement the proposed amendments to the rules of the Small and Emerging Business Development Program. Some of these costs will be absorbed within the present budget allocation. However, there may be additional cost to the state for the agency soliciting "a product/service". The additional cost will be to the extent of the incentives the agency may provide the mentor protégé participants, which shall not be less than five percent greater than incentives awarded to persons not participating in the program. The current professional staff that consists of the Executive Director, the Deputy Assistant Secretary and eight small business advisors will share additional workload or paperwork.

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

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

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

The Small and Emerging Businesses will be the direct beneficiaries of the mentor protégé program. The protégé firms will be provided with managerial and technical assistance. The mentor firms will benefit to the extent resourceful vendor may be produced through the process. The mentor protégé relationship will likely increase SEB firms' revenue to the extent of subcontracting opportunities. However, no historical data exist to estimate the impact and no method is available to make a reliable projection until the program develops a track record.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There may be an effect on competition to the extent that a competing firm with an established mentor protégé relationship would be granted additional points on a professional services contract. Whereas, the competing firms without an established mentor protégé relationship would not be granted those points. These points can aid a competing firm in winning a bid for a contract. The enhanced abilities of SEB Firms will likely increase competition and employment in the state. No data exists to estimate the impact or to make a reliable projection at this time.

Henry J. Stamper
Executive Director
0002#065

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, an amendment to Bulletin 741, referenced in LAC 28:1.901A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). School districts are required to develop a character education philosophy and implementation plan to work in conjunction with Act 149 of the 1998 First Extraordinary Session which required BESE to provide a clearinghouse for information on character education programs and to adopt rules and regulations for the implementation of nonsectarian character education programs in curricula.

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

* * *

Standard 1.087.00:

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

AUTHORITY NOTE: Promulgated by the Board of Elementary and Secondary Education in R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 26:

Interested persons may submit written comments until 4:30 p.m., April 10, 2000, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741~~0~~ Louisiana Handbook for School Administrators~~0~~ Character Education Program

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

The implementation of changes requires no cost or savings to state or 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)

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition and employment.

Marlyn Langley Deputy Superintendent 0002#098
 Robert E. Hosse General Government Section Director Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741C Louisiana Handbook for School Administrators Policy for Louisiana's Public Education Accountability System (LAC 28:1.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement an amendment to Bulletin 741, referenced in LAC 28:1.901.A, promulgated by the Board of Elementary and Secondary Education in LR 1:483 (November 1975). The proposed amendment more clearly explains the policy by which School Performance Scores will be calculated, since high stakes testing goes into effect Spring 2000. Students that fail the fourth and eighth grade LEAP tests will be given the opportunity for remediation and retesting during the summer. The changes also include refinements in the state's accountability policy as it pertains to students with disabilities. Limits for alternate and out-of-level assessments have been established, as well as procedures for calculating inclusion of the scores from out-of-level testing in the School Performance Scores.

**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).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 1:483 (November 1975), amended LR 24:1085 (June 1998), LR 26:

School Performance Scores

2.006.03 Only spring administration test data shall be used in the School Performance Score.

Inclusion of Students with Disabilities

2.006.18 Most students with disabilities shall take the CRT and the NRT tests 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 4 percent cap has been exceeded.

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.

Interested persons may submit written comments until 4:30 p.m., April 10, 2000, to Nina A. Ford, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
 Executive Director

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

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

There are no estimated implementation costs to state governmental units. The proposed changes clarify the existing accountability policy and support equitable inclusion of students with disabilities.

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

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

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

There will be no estimated costs and/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.

Marlyn Langley Deputy Undersecretary 0002#100

H. Gordon Monk Staff Director Legislative Fiscal Office

NOTICE OF INTENT

Student Financial Assistance Commission Office of Student Financial Assistance

Tuition Opportunity Program for Students (TOPS)
(LAC 28:IV.2103)

The Louisiana Student Financial Assistance Commission (LASFAC) advertises its intention to revise the provisions of the Tuition Opportunity Program for Students (TOPS).

The full text of these proposed rules may be viewed in the emergency rule section of this issue of the *Louisiana Register*.

Interested persons may submit written comments on the proposed changes until 4:30 p.m., March 20, 1999, to Jack L. Guinn, Executive Director, Office of the Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Tuition Opportunity Program for Students (TOPS)

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

The implementation cost associated with publishing these rule revisions in the *Louisiana Register* as emergency, notice and rule is approximately \$200. The purpose of this action is to clarify existing rule, therefore costs for funding additional TOPS awards are not anticipated to increase as a result of this rule change. There are no costs inconsistent with current budgetary appropriations for this purpose.

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

No impact on revenue collections is anticipated to result from this rule change.

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

TOPS recipients will be provided with clarified circumstances warranting exception and procedures for applying for waiver of continuous enrollment.

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
0002#099

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Recordkeeping for Specific Licensing of Radioactive
Material (LAC 33:XV.325, 342, and 478)(NE022)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Radiation Protection regulations, LAC 33:XV.325, 342, and 478 (Log #NE022*).

This proposed rule is identical to federal regulations found in 61 FR 24669, May 16, 1999, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This proposed rule specifies records important to decommissioning. It requires the transfer of records pertaining to decommissioning to the new licensee and states that the license will not be terminated until the Nuclear Regulatory Commission (NRC) receives the required records. Changes have occurred in the federal regulations that must be reflected in the state regulations. The basis and rationale for this proposed rule are to maintain state compatibility with the NRC.

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

Title 33

ENVIRONMENTAL QUALITY

Part XV. Radiation Protection

Chapter 3. Licensing of Radioactive Material §325. General Requirements for the Issuance of Specific Licenses

* * *

[See Prior Text in A – D.6.d]

7. Each person licensed under this Chapter shall keep records of information important to the safe and effective decommissioning of the facility in an identified location until the site is released for unrestricted use. Before licensed activities are transferred or assigned in accordance with LAC 33:XV.331.B, licensees shall transfer all records

described in this Paragraph to the new licensee. In this case, the new licensee will be responsible for maintaining these records until the license is terminated. If records important to the decommissioning of a facility are kept for other purposes, reference to these records and their locations may be used. Information the division considers important to decommissioning consists of the following:

* * *

[See Prior Text in D.7.a – d.iv]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 23:1140 (September 1997), amended LR 24:2091 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

§342. Records

A. If licensed activities are transferred or assigned in accordance with LAC 33:XV.331.B, each licensee authorized to possess radioactive material, with a half-life greater than 120 days, in an unsealed form, shall transfer the following records to the new licensee, and the new licensee will be responsible for maintaining these records until the license is terminated:

1. records of disposal of licensed material made under LAC 33:XV.461, 462, 463, and 464; and
2. records required by LAC 33:XV.472.B.4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:

Chapter 4. Standards for Protection Against Radiation

Subchapter I. Records

§478. Records of Waste Disposal

* * *

[See Prior Text in A]

B. The licensee or registrant shall retain the records required by LAC 33:XV.478.A until the division terminates each pertinent license or registration requiring the record. Requirements for disposition of these records, prior to license termination, are located in LAC 33:XV.342.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:

A public hearing will be held on March 27, 2000, at 1:30 p.m. in the Trotter Building, Second Floor, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by NE022*. Such comments must be received no later than March 27, 2000, at

4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to fax (225) 765-0486. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of NE022*.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

0002#128

NOTICE OF INTENT

Office of the Governor Crime Victims Reparation Board

Award Limits (LAC 22:XIII.503)

In accordance with the provisions of R.S. 46:1801 et seq., the Crime Victims Reparations Act, and R.S. 49:950 et seq., the Administrative Procedure Act, the Crime Victims Reparations Board hereby gives notice of its intent to promulgate rules and regulations to the awarding of compensation to applicants. There will be minor impact on family earnings and family budget as set forth in R.S. 49:972 by an expansion of reimbursable child care expenses.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part XIII. Crime Victims Reparations Board

Chapter 5. Awards

§503. Limits on Awards

A. - C.3. ...

D. Lost Wages/Earnings

1. - 4. ...

5. Repealed.

6. - 7. ...

8. If a person is not gainfully employed or is not receiving entitlement at the time of the crime, then no lost wages can be determined nor awarded. However, an award for loss of wages based on seasonal, nonsalaried or intermittent work, or a bona fide offer of employment may be based on an average net anticipated salary for the period of employment.

9. - 11. ...

E. - K.2. ...

L. Child Care Expenses

1. A maximum of \$1,500 may be paid for each eligible child care claim.

2. The board may award up to \$100 per week per child, up to a maximum of \$200 per week per family.

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:539 (May 1994), amended LR 22:710 (August 1996), LR 24:328 (February 1998), LR 25:2170 (January 1999), LR 26:

Interested persons may submit written comments on this proposed rule no later than March 27, 2000, at 5 p.m. to Bob Wertz, CVR Program Manager, Commission on Law Enforcement and Administration of Criminal Justice, 1885 Wooddale Boulevard, Room 708, Baton Rouge, LA 70806.

Lamarr Davis
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Award Limits**

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

It is estimated that implementation of the proposed rule will increase expenditures by approximately \$2,500 annually in statutorily dedicated funds beginning in 2001 from the Crime Victims Reparations Fund, which is derived from costs levied in state criminal courts. This rule will increase current limits of child care expenses which can be made to eligible victims of violent crimes. Sufficient funds are available in the Crime Victims Reparation Fund to cover these additional expenditures.

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

It is estimated that implementation of the proposed rule will increase revenue collections beginning in FY 01, however, the exact amount is unknown. The dollar amount of federal grant funding allotted annually to the Louisiana Commission on Law Enforcement (LCLE) is contingent upon the dollar amount of state funds which the agency expends for crime victims in the preceding year; therefore, increased state expenditures will generate additional federal funding for the agency in the next fiscal year. Implementation of this rule should increase state expenditures in FY 01, thereby increasing federal revenue collections beginning in FY 02.

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

The proposed amendments will increase the maximum award up to \$1,500 for child care expenses for victims of violent crimes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition or employment in the public or private sector as a result of these proposed amendments.

Michael A Ranatza
Executive Director
0002#119

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of State Uniform Payroll**

Payroll Deduction (LAC 4:III.Chapter 1)

In accordance with R.S. 49:950 et seq., the Office of the Governor, Division of Administration, Office of State Uniform Payroll is proposing to adopt the following rule amending the regulations governing payroll deductions. The purpose of the amendment is to further define, clarify, and establish parameters for vendor participation.

The full text of this proposed rule may be viewed in its entirety in the emergency rule section of this issue of the *Louisiana Register*.

Any interested person may submit written comments regarding the contents of this proposed rule to Ronald S. Mitchell, Director, Office of State Uniform Payroll, P.O. Box 94095, Baton Rouge, LA 70804-9095. All comments must be received no later than 5:00 p.m., March 13, 2000.

Whitman J. Kling
Deputy Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Payroll Deduction**

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

The purpose of this rule change is to further define, clarify, and establish parameters for vendor participation by making changes to the review process and timeline of current and new products and by increasing the minimum number of participants having each product. Although the savings to state agencies cannot be measured, it is anticipated that this change will reduce the number of low and unutilized products. This in turn will free up time for agency Human Resource/Payroll personnel which could be directed to providing other HR/PR employee related services.

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

There should be no effect on revenue collections for state or local governments.

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

This change to the current rule will refine the review process and timeline of the Employee Payroll Benefits Committee and increase the minimum employee participation requirement for each product. Employees will benefit in the knowledge that a reasonable review of need, products offered, and services provided has taken place. Vendors should appreciate the benefit of a structured review and evaluation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This change to the current rule should provide employees a better level of comfort with the products provided and provide vendors a more equitable review.

Whitman J. Kling
Deputy Undersecretary
0002#097

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Office of Public Health

Sanitary Code: Water Supplies (Chapter XII)

Under the authority of R.S. 40:4 and 5.9(A)(4) and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Health and Hospitals, Office of Public Health (DHH-OPH) intends to amend Chapter XII (Water Supplies) of the Louisiana State Sanitary Code. These amendments are deemed necessary in order that DHH-OPH may be able to maintain primacy (primary enforcement authority) from the United States Environmental Protection Agency (USEPA) over public water systems within Louisiana. USEPA requires state primacy agencies to adopt state rules and regulations which are no less stringent than the federal Safe Drinking Water Act's (42 U.S.C.A. §300f, et seq.) primary implementing regulations (40 CFR Part 141). One of the main reasons for these amendments is to implement a rule which will provide the state health officer the authority to use an optional procedure for calculating penalties related to public water systems which serve greater than 10,000 individuals when they fail to comply with a provision of an administrative compliance order issued pursuant to R.S. 40:5.9. Also, the existing definition/term "public water supply" is proposed to be deleted and reenacted as "public water system" to make it equivalent to the recently revised federal definition. In addition, several other items are also being proposed for amendment/adoption to ensure that DHH-OPH clearly has state-level requirements equivalent to federal regulations. Sections 12:004-1 and 12:004-2 regarding turbidity monitoring are proposed to be repealed in their entirety since they are out of date and no longer applicable. Turbidity monitoring is now required under the Louisiana Surface Water Treatment Rule (see LR 17:271, March 20, 1991).

The Louisiana Total Coliform Rule (see LR 17:670, July 20, 1991) which was adopted as an addendum to Chapter XII is proposed to be designated as "Appendix C" of Chapter XII. The Louisiana Surface Water Treatment Rule which was adopted in 1991 without notation to its location in the context of the various state regulations is proposed to be incorporated into Chapter XII as "Appendix D".

The proposed revisions relative to the optional penalty calculation method and the new definition/term "public water system" are specifically necessary due to a federal rule promulgated by USEPA in the Federal Register dated April 28, 1998 (Volume 63, Number 81, pages 23366 through 23368), which is entitled "Revisions to State Primacy Requirements to Implement Safe Drinking Water Act Amendments". This federal rule was promulgated under the authority of the federal Safe Drinking Water Act Amendments of 1996 (Pub.L. 104-182 dated August 6, 1996).

This proposed rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972; however, in accord with R.S. 49:972(B)(6) local

governmental units may be affected if they own or operate a public water system serving greater than 10,000 individuals, are issued an administrative compliance order by the state health officer, violate one or more provisions of such order after the compliance deadline(s) specified therein expires, and the state health officer decides to impose a monetary penalty for such non-compliance using the new authority granted by this proposed rule. Local governmental units owning or operating a public water system are already subject to the requirements of the existing Civil Penalty Assessment Rule; therefore, the actual effect of the new rule would amount to potentially higher penalties than may currently be assessed, especially if more than one provision of the order was violated.

Authority and historical footnotes have been added beneath various sections in preparation for the eventual codification of Chapter XII (Water Supplies) in the *Louisiana Administrative Code*. Further work will be needed to be done in future revisions to complete footnoting of other sections in preparation for such codification.

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

Sanitary Code, State of Louisiana

Chapter XII (Water Supplies)

12:001 Definitions

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

Abandoned Well: a water well that has been permanently discontinued; has had its pumping equipment permanently removed; is in such a state of disrepair that it cannot be used to supply water and/or has the potential for transmitting surface contaminants into the aquifer; poses potential health or safety hazards or the well is in such a condition that it cannot be placed in service.

Auxiliary Intake: any piping connection or other device whereby water may be secured from a source other than that normally used.

Backflow

(1) a flow condition, induced by a differential pressure, that causes the flow of water or other liquid into the distribution pipes of a potable water supply from any source or sources other than its intended source, or

(2) the backing up of water through a conduit or channel in the direction opposite to normal flow.

Backflow Preventer: a device for a potable water supply pipe to prevent the backflow of water of questionable quality into the potable water supply system.

Back Siphonage: a form of backflow caused by negative or subatmospheric pressure within a water system.

Boil Notice: an official order authorized by the State Health Officer to the owner/users of a specific water supply, directing that water from that supply be boiled according to directions, or otherwise disinfected prior to human consumption.

By-Pass: any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water supply or treatment facility.

Category a group of parameters for which certification is offered.

Certification Fee the annual charge assessed laboratories requesting certification from the Department of Health and Hospitals to provide the needed chemical (organic, inorganic and radiological) analytical support for the public water systems.

Committee of Certification the committee, created by LSA - R.S. 40:1141 through 1151, responsible for certification of waterworks operators and sewerage works operators.

Community Water Supply a public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

Contaminant any physical, chemical, biological, or radiological substance or matter in water.

Cross Connection

(1) a physical connection through which a supply of potable water could be contaminated or polluted, or

(2) a connection between a supervised potable water supply and an unsupervised supply of unknown potability.

Drain any pipe which carries waste water or water-borne waste in a building drainage system.

Drainage System (drainage piping) includes all the piping within public or private premises, which conveys sewage, rain water, or other liquid wastes to a point of disposal, but does not include the mains of a public sewer system or a private or public sewage treatment plant.

Ground Water subsurface water occupying the saturation zone from which wells and springs are fed. In a strict sense the term applies only to water below the water table.

Interconnection a physical connection between two water supply systems.

Laboratory Certification Manual the reference book which contains the Department of Health and Hospitals' regulations governing laboratory certification and standards of performance for laboratories conducting drinking water analyses for public water supplies in the state of Louisiana.

Laboratory Certification Program a program carried out by the Department of Health and Hospitals, Office of Public Health and Office of Licensing and Certification to approve commercially and publicly owned laboratories to perform compliance monitoring of public water supplies in accordance with the National Primary Drinking Water Regulations and Chapter XII of the State Sanitary Code. The cost of the program will be recouped from the laboratories requesting certification.

Laboratory Requesting Certification an uncertified laboratory which has submitted an acceptable application and appropriate fee(s) for the category in which it desires certification.

Louisiana Water Well Rules, Regulations, And Standards the November 1985 Edition, promulgated by the Louisiana Office of Public Works, Department of Transportation and Development, under provisions of State Act 535 of 1972 (R.S. 38:3091 et seq.).

Maximum Contaminant Level (MCL) the highest permissible concentration of a substance allowed in drinking water as established by the U.S. Environmental Protection Agency.

National Primary Drinking Water Regulations regulations promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of title XIV of the Public Health Service Act, commonly known as the "Safe Drinking Water Act," 42 U.S.C.A. §300f, et seq., and as published in the July 1, 1997 edition of the *Code of Federal Regulations*, Title 40, Part 141 (40 CFR 141) less and except the following:

i.) Subpart H - Filtration and Disinfection (40 CFR 141.70 through 40 CFR 141.75), and

ii.) Subpart M - Information Collection Requirements (ICR) for Public Water Systems (40 CFR 141.140 through 40 CFR 141.144).

National Secondary Drinking Water Regulations regulations (40 CFR Part 143) promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of P.L. 99-339, the "Safe Drinking Water Act," and as published in the Federal Register of July 19, 1979, pages 42,195 through 42,202 and April 2, 1986, page 11,412.

Noncommunity Water Supply a public water system that does not meet the criteria for a community water supply and serves at least 25 individuals (combination of residents and transients) at least 60 days out of each year. A non-community water supply is either a "transient non-community water supply" or a "non-transient non-community water supply".

Nontransient Noncommunity Water Supply a public water system that is not a community system and regularly serves at least 25 of the same persons (non-residents) over six months per year.

Operator the individual, as determined by the Committee of Certification, in attendance, onsite of a water supply system and whose performance, judgment and direction affects either the safety, sanitary quality or quantity of water treated or delivered.

Permit a written document issued by the State Health Officer through the Office of Public Health which authorizes construction and operation of a new water supply or a modification of any existing supply.

Potable Water water having bacteriological, physical, radiological, and chemical qualities that make it safe and suitable for human drinking, cooking and washing uses.

Potable Water Supply a source of potable water, and the appurtenances that make it available for use.

Private Water Supply a potable water supply that does not meet the criteria for a public water supply.

Public Water Supply "public water system".

Public Water System a system for the provision to the public of water for potable water purposes through pipes or other constructed conveyances, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. Such term includes:

(a) Any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and,

(b) Any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

A public water system is either a "community water supply" or a "non-community water supply".

Reservoir a natural or artificial lake or impoundment for storage of water (either raw or treated) used or proposed to be used for potable purposes.

Sanitary Well Seal a suitable threaded, flanged, or welded water-tight cap or compression seal installed at the top of the well casing so as to prevent the entrance of contaminated water or other objectionable material into the well.

Service Connection the pipe from the water main and/or water meter, water supply system or other source of water supply to the building or structure served.

Source of Water Supply any well, spring, cistern, infiltration gallery, stream, reservoir, pond, or lake from which, by any means, water is taken either temporarily or continuously for potable use.

Surface Water derived from water sources on the surface of the earth such as streams, ponds, lakes, or reservoirs.

Ten-State Standards the *Recommended Standards for Water Works* (1982 Edition)* or *Recommended Standards for Sewage Works* (1978 Edition)* promulgated by the Great Lakes and Upper Mississippi River Board of State Sanitary Engineers and any modifications and additions to these Standards which the State Health Officer may establish in this Chapter.

* Published by: Health Education Service, P. O. Box 7126, Albany, New York 12224

Transient Non-Community Water Supply a non-community water supply that does not regularly serve at least 25 of the same persons over six months per year.

Treatment Technique Requirement a treatment process/standard which has been established in lieu of a maximum contaminant level when, in the State Health Officer's judgement, it is not economically or technologically feasible to ascertain the level of a contaminant in water intended for potable purposes.

Vacuum Breaker a device for relieving a vacuum or partial vacuum formed in a pipeline, thereby preventing back siphonage.

Water Well (Well) an artificial excavation that derives water from the interstices of the rocks or soil which it penetrates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4, 40:5, and 40:1148.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 14:630 (September 1988), amended LR 15:969 (November 1989), LR 17:781 (August 1991), LR 20:545 (May 1994), LR 26:

12:002-1 General Requirements

Every potable water supply which is hereafter constructed, or reconstructed, or every existing water supply which the State Health Officer determines is unsafe, shall be made to comply with the requirements of the Code.

12:002-2 Permit Requirements

No public water supply shall be hereafter constructed, operated or modified to the extent that the capacity, hydraulic conditions, functioning of treatment processes, or the quality of finished water is affected, without, and except in accordance with, a permit from the State Health Officer.

No public water supply shall be constructed or modified to the extent mentioned above except in accordance with the plans and specifications for the installation which have been approved, in advance, as a part of a permit issued by the State Health Officer prior to the start of construction or modification. Detailed plans and specifications for the installation for which a permit is requested shall be submitted by the person having responsible charge of a municipally owned public water supply or by the owner of a privately owned public water supply. The review and approval of plans and specifications submitted for issuance of a permit, will be made in accordance with the "Ten-State Standards" and the *Louisiana Water Well Rules, Regulations, and Standards*, plus any additional requirements of the State Health Officer as set forth in this Chapter.

12:002-3 Permits issued, and approvals of plans and specifications granted prior to the effective date of this Code shall remain in effect as they pertain to the design of the supply unless the revision of such is determined necessary by the State Health Officer.

12:002-4 Water supplied for potable purposes shall be:

- (a) obtained from a source free from pollution; or
- (b) obtained from a source adequately protected by natural agencies from the effects of pollution; or
- (c) adequately protected by artificial treatment.

12:002-5 Water Quality Standards

Each public water supply shall comply with the maximum contaminant levels or treatment technique requirements prescribed in the National Primary Drinking Water Regulations, the Louisiana Total Coliform Rule (Appendix C), and the Louisiana Surface Water Treatment Rule (Appendix D). The State Health Officer, upon determining that a risk to human health may exist, reserves the right to limit exposure to any other contaminant. Further, each public water supply should comply with the National Secondary Drinking Water Regulations. Treatment to remove questionable characteristics shall be approved by the State Health Officer.

Each public water supply shall comply with the monitoring and analytical requirements specified in the National Primary Drinking Water Regulations, the Louisiana Total Coliform Rule (Appendix C), and the Louisiana Surface Water Treatment Rule (Appendix D), as applicable. A laboratory certification program has been established to approve commercially and publicly owned laboratories to perform chemistry compliance monitoring for public water supplies. Laboratories seeking certification in any chemistry category for which certification is offered must adhere to the rules and regulations governing laboratory certifications as contained in the Department of Health and Hospitals' Laboratory Certification Manual dated September 1989. An annual certification fee will be assessed laboratories seeking certification from the Department of Health and Hospitals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984) as section 12:002-4, contents renumbered as section 12:002-5 and amended by the Department of Health and Hospitals, Office of Public Health, LR 14:630 (September 1988), amended LR 15:969 (November 1989), LR 26:

12:002-6 Upon determination that a public water supply is not in compliance with the maximum contaminant levels or treatment technique requirements of the National Primary Drinking Water Regulations, variances and/or exemptions may be issued by the State Health Officer in accord with Sections 1415 and 1416 of the Safe Drinking Water Act, P.L. 99-339. Upon receipt of a variance and/or exemption, the owners of the public water supply shall appraise their supply and submit within one hundred eighty (180) days compliance and implementation schedules to correct the noncompliance for which the variance and/or exemption was issued. Such compliance and implementation schedule when approved by the State Health Officer shall be executed in accord therewith.

12:002-7 [Blank].

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 15:969 (November 1989), repealed LR 17:781 (August 1991), LR 26:

12:003-1 Responsibility of Owner

It shall be the duty of the Mayor, or the person having responsible charge of a municipally owned water supply, or the legal or natural person owning a public water supply, to take all measures and precautions which are necessary to secure and ensure compliance with this Chapter of the Code, and such persons shall be held primarily responsible for the execution and compliance with regulations of this Code. A printed copy of this Chapter of the Code shall be kept permanently posted in the office used by the authority owning or having charge of a public water supply.

12:003-2 Plant Supervision and Control

All public water supplies shall be under the supervision and control of a competent operator. The operator of public water supplies serving more than 500 persons shall be certified as per requirements of the State Operator Certification Act, Act 538 of 1972, as amended (LSA - R. S. 40:1141-1151).

12:003-3 Records

Complete daily records of the operation of water treatment plants, including reports of laboratory control tests, shall be kept for a period of two years on forms approved by the State Health Officer. Copies of these records shall be provided to the office designated by the State Health Officer within ten (10) days following the end of each calendar month.

12:003-4 Public Notification

If a public water system fails to comply with an applicable maximum contaminant level, treatment technique requirement, or analytical requirement as prescribed by this Code or fails to comply with the requirements of any schedule prescribed pursuant to a variance or exemption, or fails to perform any monitoring required by this Code, the supplier of water shall notify persons served by the system of the failure in a manner prescribed by the National Primary Drinking Water Regulations, the Louisiana Total Coliform Rule (Appendix C), or the Louisiana Surface Water Treatment Rule (Appendix D), as applicable. In addition, if a public water system fails to report required analytical data to the appropriate office designated by the State Health Officer within the applicable time limit(s) stipulated by the National

Primary Drinking Water Regulations or the Louisiana Surface Water Treatment Rule (Appendix D) and such data (e.g., turbidity measurements, corrosion control chemical concentrations, etc.) is required to determine a maximum contaminant level or treatment technique requirement prescribed by this Code, the public water system shall be assessed a monitoring violation and must give appropriate public notification. The water supply, within ten days subsequent to the completion of each public notification shall submit to the State Health Officer a representative copy of each type of notice distributed, published, posted and/or made available to the persons served by the supply and/or to the news media.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 14:630 (September 1988), amended LR 26:

12:003-5 Security

All public water supply wells, treatment units, tanks, etc., shall be located inside a fenced area that is capable of being locked; said areas shall be locked when unattended. The fence shall be resistant to climbing and at least six (6') feet high.

12:004-1 [Blank].

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 14:630 (September 1988), repealed LR 26:

12:004-2 [Blank].

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 14:630 (September 1988), repealed LR 26:

12:005 Reporting Changes in Public Water Supplies

No person owning, or having by law the management control of any public water supply, shall take or cause to be taken for use for potable purposes, water from any auxiliary source other than a source or sources of water approved by the State Health Officer, or shall make any change whatsoever which may affect the sanitary quality of such water supply, without first having notified the State Health Officer. Also, any violation of the National Primary Drinking Water Regulations shall be reported to the State Health Officer within 48 hours after learning of any violation.

12:006 Filtration

All potable water derived from surface waters shall be filtered before distribution. Pressure filters shall not be used in the filtration of surface waters.

12:007 Treatment Chemicals

Chemicals used in the treatment of water to be used for potable purposes shall either meet the standards of the American Water Works Association or meet the guidelines for potable water applications established by the U. S. Environmental Protection Agency.

12:008-1 Ground Water Supplies

All potable ground water supplies shall comply with the following requirements:

12:008-2 Exclusion of Surface Water From Site

The ground surface within a safe horizontal distance of the source in all directions shall not be subject to flooding (as defined in footnote 4 of 12:008-3) and shall be so graded and drained as to facilitate the rapid removal of surface water. This horizontal distance shall in no case be less than fifty (50') feet for potable water supplies.

12:008-3 Distances to Sources of Contamination

Every potable water well, and the immediate appurtenances thereto that comprise the well, shall be located at a safe distance from all possible sources of contamination, including but not limited to, privies, cesspools, septic tanks, subsurface tile systems, sewers, drains, barnyards and pits below the ground surface. The horizontal distance from any such possible source of pollution shall be as great as possible, but in no case less than the following minimum distances, except as otherwise approved by the State Health Officer:

Source	Distance in Feet
Septic tanks	50
Storm or sanitary sewer	50 ¹
Cesspools, outdoor privies, oxidation ponds, subsurface absorption fields, pits, mechanical sewage treatment plants, etc.	100 ²
Another water-well	25 ³
Sanitary landfills, feed lots, manure piles, solid waste dumps and similar installations	100
Drainage canal, ditch or stream	50 ⁴

¹ This distance may be reduced to thirty (30') feet if the sewer is of cast iron with leaded joints or Schedule 40 plastic pipe with water-tight joints.

² For a private water well this distance may be reduced to fifty (50') feet.

³ This minimum distance requirement does not take into consideration the effects of interference from pumping nearby wells in the same aquifer.

⁴ Horizontally measured from the water's edge to the well at the highest water level which may have occurred in a ten-year period.

12:008-4 Leakage From Toilets And Sewers

No toilet, sewer, soil pipe or drain shall be located above or where leakage therefrom can reach any water storage basin, reservoir or source of water supply.

12:008-5 Pits Near Water Supply

There shall be no unauthorized pits or unfilled spaces below level of ground surface, any part of which is within fifty feet of such water supply, except properly constructed well, pump, or valve pits as covered under Section 12:009-5 of this Chapter.

12:008-6 Satisfactory Earth Formation Above The Water Bearing Stratum

The earth formations above the water-bearing stratum shall be of such character and depth as to exclude contamination of the source of supply by seepage from the surface of the ground.

12:008-7 Minimum Depth of Casings and Curbings

All well and spring basin casings or curbings shall extend a safe distance below the ground surface. The minimum depth of casings or curbings shall not be less than fifty (50) feet in the case of public water supplies and not less than ten (10) feet in the case of private water supplies.

12:008-8 Height of Casings and Curbings

In wells with pipe casings, the casings shall project at least twelve inches above ground level or the top of the cover or floor, and the cover or floor shall slope away from the well casing or suction pipe in all directions. Dug well linings shall extend at least twelve inches above the ground surface and cover installed thereon. The cover shall be watertight, and its edges shall overlap and extend downward at least two inches over the walls or curbings of such wells. In flood-prone areas the top of the casing shall be at least two (2') feet above the highest flood level which may have occurred in a ten (10) year period, but in no case less than two (2') feet above the ground surface.

12:008-9 Grouting

The annular space between the well casing and the bore hole shall be sealed with cement-bentonite slurry or neat cement. Community public supply wells shall be cemented to their full depth from the top of the producing aquifer to the ground surface; noncommunity public supply wells shall be cemented from a minimum depth of fifty (50') feet to the ground surface; and private supply wells shall be cemented from a minimum depth of ten (10') feet to the ground surface.

12:008-10 Cover or Floors

Every dug well, spring, or other structure used as a source of potable water, or for the storage of potable water, shall be provided with a watertight cover. Covers and every pump room floor shall be constructed of concrete or similar impervious material, and shall be elevated above the adjacent ground level and sloped to facilitate the rapid removal of water so as to provide drainage from the cover or floor and prevent contamination of the water supply. Such cover or floor shall be constructed so that there are no copings, parapets, or other features which may prevent proper drainage, or by which water can be held on the cover. Concrete floors or cover slabs shall be of such thickness and so reinforced as to carry the load which may be imposed upon it, but in no case less than four (4) inches thick.

12:008-11 Potable Water Well Seals and Covers

Every potable water well shall be provided with a watertight sanitary well seal at the top of the casing or pipe sleeve. For wells with solid pedestal foundations, the well casing shall project at least one (1") inch above the level of the foundation, and a seal between the well casing and the opening in the pump base plate shall be used to effectively seal the base plate to the well casing.

12:008-12 Potable Water Well Casing Vents

All potable water well casings shall be vented to atmosphere as provided in Section 12:008-13 of this Code, with the exception that no vent will be required when single-pipe jet pumps are used.

12:008-13 Potable Water Well Vents

All potable water well vents shall be so constructed and installed as to prevent the entrance of contamination. All vent openings shall be piped water tight to a point not less than twenty-four (24") inches above the highest flood level

which may have occurred in a ten year period, but in no case less than twenty-four (24") inches above the ground surface. Such vent openings and extensions thereof shall be not less than one-half (1/2") inch in diameter, with extension pipe firmly attached thereto. The openings of the vent pipes shall face downward and shall be screened to prevent the entrance of foreign matter.

12:008-14 Manholes

Manholes may be provided on dug wells, reservoirs, tanks, and other similar water supply structures. Every such manhole shall be fitted with a watertight collar or frame having edges which project at least two inches above the level of the surrounding surface, and shall be provided with a solid watertight cover having edges which overlap and project downward at least two inches around the outside of the frame. The cover shall be kept locked at all times, except when it is necessary to open the manhole.

12:008-15 Well Construction Standards

All wells constructed to serve a potable water supply shall be constructed in accordance with *Louisiana Water Well Rules, Regulations, and Standards*. Drillers of wells to serve a potable water supply will comply with the requirements for licensing of water well drillers under State Act No. 715 of 1980 (R.S. 38:2226, 38:3098-3098.8) which is administered by the Louisiana Office of Public Works.

12:008-16 Sampling Tap

All potable water supply wells shall be provided with a readily accessible faucet or tap on the well discharge line at the well for the collection of water samples. The faucet or tap shall be of the smooth nozzle type, shall be upstream of the well discharge line check valve and shall terminate in a downward direction.

12:008-17 Disinfection of Wells

All new wells or existing wells on which repair work has been done shall be disinfected before being put into use as prescribed in Section 12:020-2 of this Chapter.

12:009-1 Construction and Installation of Pumps

All water pumps shall be so constructed and installed as to prevent contamination of the water supply.

12:009-2 Hand Pump Head and Base

Every hand-operated pump shall have the pump head closed by a stuffing box or other suitable device to exclude contamination from the water chamber. The pump base shall be of solid one-piece recessed type of sufficient diameter and depth to admit the well casing as hereinafter provided. The top of the casing or sleeve of every well, equipped with such a pump, shall project into the base of the pump at least one inch above the bottom thereof and shall extend twelve (12") inches above the level of the platform, well cover, or pump room floor on which the pump rests. The pump shall be fastened to the casing or sleeve. The pumps shall be of the self-priming type.

12:009-3 Power Pump

Where pumps or pump motors are placed directly over the well, the pump or motor shall be supported on a base provided therefor. The well casing shall not be used to support pump or motor. This requirement shall not apply to submersible pumps/motors and single-pipe jet pumps/motors. The pump or motor housing shall have a solid watertight metal base without openings to form a cover for the well, recessed to admit the well casing or pump suction. The well casing or pump suction shall project into

the base at least one inch above the bottom thereof, and at least one inch above the level of the foundation on which the pump rests. The well casing shall project at least twelve (12") inches above ground level or the top of the floor.

12:009-4 Where power pumps are not placed directly over the well, the well casing shall extend at least twelve inches above the floor of the pump house. In flood-prone areas the top of the casing shall extend at least two (2') feet above the highest flood level which may have occurred in a ten (10) year period, but in no case less than two (2') feet above the ground surface. The annular space between the well casing and the suction pipe shall be closed by a sanitary well seal to prevent the entrance of contamination.

12:009-5 Well, Pump, Valve, and Pipe Pits

No well head, well casing, pump, or pumping machinery shall be located in any pit, room, or space extending below ground level, or in any room or space above the ground which is walled in or otherwise enclosed so that it does not have drainage by gravity to the surface of the ground, except in accordance with design approved by the State Health Officer, provided, that this shall not apply to a dug well properly constructed as herein prescribed.

12:009-6 Pump House

All pump houses shall be properly constructed to prevent flooding, and shall be provided with floor drainage.

12:009-7 Lubrication of Pump Bearings

Well pump bearings shall be lubricated with oil of a safe, sanitary quality or potable water.

12:009-8 Priming of Power Pumps

Power pumps requiring priming shall be primed only with potable water.

12:009-9 Priming of Hand Pumps

Hand-operated pumps shall have cylinders submerged so that priming shall not be necessary. No pail and rope, bailer, or chain-bucket systems shall be used.

12:009-10 Airlift Systems

The air compressor and appurtenances for any airlift system or mechanical aerating apparatus used in connection with a potable ground water supply, shall be installed and operated in accordance with plans and specifications that have been approved as part of a permit issued by the State Health Officer.

12:010 Well Abandonment

Abandoned water wells and well holes shall be plugged in accordance with the *Louisiana Water Well Rules, Regulations, and Standards*.

12:011-1 Reservoir Sanitation

The State Health Officer may designate any water body, or a part of any water body, as a reservoir, where, in its use as a water source for public water supply, the control of other uses of the water body, or designated part of the water body, and its watershed, is necessary to protect public health.

12:011-2 No cesspool, privy or other place for the deposit or storage of human excrement shall be located within 50 feet of the high water mark of any reservoir, stream, brook, or other watercourse flowing into any reservoir, and no place of this character shall be located within 250 feet of the high water mark of any reservoir or watercourse as above mentioned, unless such receptacle is so constructed that no portion of the contents can escape or be washed into the reservoir or watercourse.

12:011-3 No stable, pigpen, chicken house or other structure where the excrement of animals or fowls is allowed to accumulate, shall be located within 50 feet of the high water mark of any reservoir or watercourse as above mentioned, and no structure of this character shall be located within 250 feet of the high water mark of such waters unless provision is made for preventing manure or other polluting materials from flowing or being washed into such waters.

12:011-4 Boating, fishing, water skiing and swimming on any reservoir or watercourse as above mentioned shall be prohibited, or otherwise restricted by the State Health Officer, when it has been determined that the public served by the public water supply using the reservoir as a water source is exposed to a health hazard, and that such prohibitions or restrictions are therefore necessary. In any case, the aforementioned activities shall be prohibited within one hundred feet of the water intake point of the public water supply.

12:011-5 Industrial Wastes

No industrial waste which may cause objectionable changes in the quality of water used as a source of a public water supply shall be discharged into any lake, pond, reservoir, stream, underground water stratum, or into any place from which the waste may flow, or be carried into a source of public water supply. (Note: This was formerly numbered 12:024).

12:012-1 Distribution

All potable water distribution systems shall be designed, constructed, and maintained so as to prevent leakage of water due to defective materials, improper jointing, corrosion, settling, impacts, freezing, or other causes. Valves and blow-offs shall be provided so that necessary repairs can be made with a minimum interruption of service.

12:012-2 All installations of, or repairs to, public water systems or residential and nonresidential plumbing facilities that provide drinking water and which are connected to a public water supply shall be made using lead free piping, solder and flux. The only exception to this general requirement is that leaded joints necessary for the repair of cast iron pipes may be allowed. For these purposes, lead free, when used with respect to solder and flux, refers to solder and flux containing not more than 0.2 per cent lead. Additionally, when used with respect to pipes and fittings, lead free refers to pipes and fittings containing not more than 8.0 per cent lead.

12:012-3 Where pumps are used to draw water from a water supply distribution system or are placed in a system to increase the line pressure, provision must be made to limit the pressure on the suction side of the pump to not less than fifteen (15) pounds per square inch gauge. Where the use of automatic pressure cut-offs is not possible, such pumps must draw water from a tank, supplied with water from a water distribution system through an air gap as per Chapter XIV of this Code.

12:012-4 All public water supplies shall be operated and maintained to provide a minimum positive pressure of fifteen (15) pounds per square inch gauge at all service connections at all times.

12:013-1 Storage

All cisterns and storage tanks shall be of watertight construction and made of concrete, steel or other materials approved for this purpose by the State Health Officer. When

located wholly or partly below ground, such storage basins shall be of corrosion resistant materials.

12:013-2 Cisterns used for potable water shall be provided with a rain water cut-off, suitable to deflect the first washings of the roof and prevent contamination of the water. Cisterns shall be tightly covered, and screened with 18-mesh wire screen.

12:013-3 Vent Openings

Any vent, overflow, or water level control gauge provided on tanks or other structures containing water for any potable water supply shall be constructed so as to prevent the entrance of birds, insects, dust or other contaminating material. Openings or vents shall face downward and shall be not less than two (2') feet above the floor of a pump room, the roof or cover of a tank, the ground surface or the surface of other water supply structures.

12:013-4 Coatings

Paints or other materials used in the coating of the interior of cisterns, tanks or other containers in which potable water is processed or stored shall be nontoxic to humans and shall be of such composition that the palatability of the water stored or processed shall not be adversely affected. The "Standard for Painting Steel Water Storage Tanks" (AWWA D102-78) published by the American Water Works Association shall be complied with. Determination of acceptability of coatings for potable water applications by the U.S. Environmental Protection Agency may be considered evidence of compliance with this Section. (The AWWA Standard can be obtained from the American Water Works Association, 6666 W. Quincy Ave., Denver, Colo. 80235.)

12:014-1 Protection of Suction Pipes

All subsurface suction piping, such as that leading from detached wells or reservoirs, shall be protected against the entrance of contamination.

12:014-2 Valve boxes shall be provided for valves on buried suction lines. Every such valve box shall project at least six (6") inches above the floor if in a room or building, and at least twelve (12") inches above the ground if not enclosed in a building. The top of the box shall be provided with a cover with overlapping edges.

12:015 Separation of Water Mains and Sewer Mains

Sewer and water mains shall be laid in separate trenches not less than six (6') feet apart horizontally, when installed in parallel. Crossing water and sewer mains shall have a minimum vertical separation of eighteen (18") inches. In cases where it is not possible to maintain a six foot horizontal separation, the State Health Officer may allow a waiver of this requirement on a case by case basis if supported by data from the design engineer.

12:016-1 Cross Connections

There shall be no physical connection between a public water supply and any other water supply which is not of equal sanitary quality and under an equal degree of official supervision; and there shall be no connection or arrangement by which unsafe water may enter a public water supply system.

12:016-2 Water from any potable water supply complying with these requirements may be supplied to any other system containing water of questionable quality only by means of an independent line discharging not less than a distance equal to two (2) times the pipe diameter or two (2) inches, whichever

is greater, above the overflow level of storage units open to atmospheric pressure or by other methods approved by the State Health Officer.

12:017 Connection With Unsafe Water Sources Forbidden

There shall be no cross-connection, auxiliary intake, bypass, inter-connection or other arrangement, including overhead leakage, whereby water from a source that does not comply with these regulations may be discharged or drawn into any potable water supply which does comply with these requirements. The use of valves, including check or back pressure valves, is not considered protection against return flow, or back-siphonage, or for the prevention of flow of water from an unapproved source into an approved system.

12:018 Connections to Public Water Supply

All inhabited premises and buildings located within 300 feet of an approved public water supply shall be connected with such supply, provided that the property owner is legally entitled to make such a connection. The State Health Officer may grant permission to use water from some other source.

12:019 Protection During Construction

All potable water supplies which are hereafter constructed, reconstructed, or extensively altered shall be protected to prevent contamination of the source during construction.

12:020-1 Disinfection of Potable Water Supply Systems

Pipes, pumps, and other parts of water supply systems shall be disinfected when deemed necessary by the State Health Officer.

12:020-2 Disinfection of New Water Supplies

Pumps, pipes, wells, tanks and other parts of new systems shall be thoroughly disinfected by the use of chlorine or chlorine compounds before being placed in use. The rate of application of chlorine shall be in such proportion to the rate of water entering the pipe or other appurtenances that the chlorine dose applied to the water shall be at least 50 mg/l. Chlorinated water shall be retained long enough to destroy non-spore-forming bacteria. The period shall be at least three hours and preferably longer, as may be directed. After the chlorine treated water has been retained for the required time, the chlorine residual at pipe extremities and at other representative points shall be at least 5 mg/l. If the residual is less than 5 mg/l, the disinfection procedure shall be repeated until a 5 mg/l residual is obtained, as required above.

12:020-3 Large storage tanks may be disinfected by washing down the interior of the tank with a chlorine solution having at least 200 mg/l available chlorine and then washing the interior of the tank with potable water and wasting the wash water.

12:020-4 Water from new systems, or from new parts of existing systems, shall not be furnished for consumer's use until tests performed by a laboratory which is certified by the State Health Officer have shown the new system or new part of the system to be free from contamination by coliform bacteria (following procedures prescribed in Standard Methods for the Examination of Water and Wastewater, Fourteenth Edition). Samples shall not be collected from the new facilities until such new facilities have been disinfected as prescribed in Section 12:020-2 above, and the chlorinated water thoroughly flushed from the system.

12:021-1 Mandatory Disinfection

Routine, continuous disinfection is required of all public water systems other than those under Section 12:021-4 of these regulations. Where continuous chlorination methods are used, the following minimum concentration of free chlorine residual shall be provided leaving the plant:

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

THIS TABLE DOES NOT APPLY TO SYSTEMS USING CHLORAMINES.

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

Systems which use surface water or ground water which is under the influence of surface water shall meet the requirements of applicable sections of the Louisiana Surface Water Treatment Rule as it pertains to CT and *Giardia* and virus requirements for disinfection.

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 14:630 (September 1988), amended LR 20:1008 (September 1994), LR 26:

12:021-2 Minimum Disinfection Residuals

A minimum disinfectant residual of detectable amount of total chlorine shall be maintained at all points throughout the distribution system at all times for chlorination methods other than chloramines. For very small water systems a residual of 0.2 mg/l free chlorine is generally required to maintain said systems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 14:630 (September 1988), amended LR 20:1008 (September 1994), LR 26:

12:021-3 Other Methods of Disinfection

Where chlorination is not used as the primary disinfectant, chlorine or chloramines shall be used as the secondary disinfectant to provide the residuals required in 12:021-2. Other methods shall be evaluated on a case-by-case basis by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 14:630 (September 1988), amended LR 20:1008 (September 1994), LR 26:

12:021-4 Variances to Mandatory Disinfection

A variance may be granted by the state health officer to a public water system, provided the system meets one of the following criteria:

(a) If the public water system has not had a bacteriological maximum contaminant level (MCL) violation for the past three years;

(b) If the public water system, both existing and future installations, can prove that disinfection would create trihalomethane (THM) levels of 0.10 milligrams per liter or greater. The public water supply should explore alternate means of disinfection prior to requesting a variance. A variance can be granted for such systems, provided the system has the required equipment to verify that a detectable amount of chlorine residual is maintained at all times. For systems under 10,000 population served, said systems shall have 90 days after a TTHM (Total Trihalomethane) exceedance of 0.100 milligrams per liter is determined to request said variance;

(c) A variance shall be granted to a public water supply owned by and/or operated by, and/or created as a political subdivision in accordance with Article 6 Section 14 of the Constitution of the State of Louisiana;

(d) In reference to (a), (b), and (c) above, on a case-by-case basis, when a bacteriological MCL occurs and an administrative order shall be or has been issued to that particular water system, the said water system shall be subject to the orders of the state health officer to take whatever remedial actions that are deemed necessary to comply with all applicable rules, regulations, standards, and the Louisiana Sanitary Code, including, but not limited to, the Louisiana Total Coliform Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 14:630 (September 1988), amended LR 20:1008 (September 1994), LR 26:

12:021-4.1 Variances must be requested in writing and must be approved prior to the effective date of the mandatory disinfection requirement as prescribed in Section 12:021-1 except the new conditions that arise in 12:021-4(b).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 20:1008 (September 1994), LR 26:

12:021-5 Revocation of Variance

A variance from mandatory disinfection shall be revoked when a public water system has a bacteriological MCL violation. When a variance is revoked, the system must install mandatory continuous disinfection as stated in Section 12:021-2 within the times specified in a compliance schedule submitted to and approved by state health officer. Such schedule shall be submitted within 10 days of receipt of notice of revocation. For systems affected under

12:021-4(b), revocations because of a bacteriological MCL shall be evaluated on a case-by-case basis by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), repealed by the Department of Health and Hospitals, Office of Public Health, LR 14:630 (September 1988), re-promulgated LR 20:1008 (September 1994), LR 26:

12:021-6 Batch Disinfection

State health officer may allow batch disinfection for emergency purposes. Batch disinfection shall not be considered a method of continuous disinfection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 20:1008 (September 1994), LR 26:

12:021-7 Records

Daily records of chlorine residual measurements shall be kept. These records shall be maintained on forms approved by the state health officer and shall be retained for a period of two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 20:1008 (September 1994), LR 26:

12:022-1 Water Shall Be Provided

It shall be the duty of the owner or manager of any premises occupied as a residence, hotel, lodging house, tenement house, office building, shop, factory, or waiting room or depot of a railroad or other common carrier to provide a safe supply of potable water for human consumption and for sanitary purposes.

12:022-2 In all cases where the owner or owners of the property or premises referred to in this Code shall not reside in the place where the property is situated, or when such property shall belong to an estate, succession or corporation, it shall be the duty of the agent, or representative of the owners thereof, or the persons who shall have charge of said property for the owners thereof, or who shall collect the rent of such premises, if the same is rented, to provide and furnish such premises with a safe and adequate potable water supply. In case such person shall fail or neglect to supply the same to such premises, within fifteen (15) days after due notice, he shall be in violation of the provisions of this Chapter.

12:022-3 Each public, parochial and private school shall be provided with a potable water supply which is approved as to source, location, and distribution by the State Health Officer.

12:022-4 It shall be the duty of all employers to supply an adequate, safe, potable water supply for all employees.

12:022-5 Wherever a public water supply is available, no other supply shall be furnished for potable purposes to employees in any factory or industrial plant, or other place of business, unless such other supply is approved by the State Health Officer. If no public water supply is available, the water for potable purposes shall be of safe, sanitary quality approved by the State Health Officer. If the water supply for industrial or fire protection purposes is obtained

entirely or in part from a source not approved for potable purposes, this supply shall be distributed through an independent piping system having no connection with the system carrying potable water. All faucets or other outlets furnishing water which is not safe for potable purposes shall be conspicuously so marked.

12:023-1 Public Drinking Fountains

All public drinking fountains shall be designed and constructed in accordance with the provisions of Chapter XIV of this Code. Drinking fountains and coolers shall be constructed of lead free materials as specified in section 12:012-2.

12:023-2 Water fountains and coolers shall be so constructed that the ice or other refrigerant used for cooling cannot come in contact with the water.

12:023-3 Where water coolers or supply tanks used for drinking water are not directly connected to the source of supply, arrangements for filling the containers shall be such as to prevent contamination of the water.

12:023-4 The use of a common drinking cup is prohibited.

12:024 Potable Water Loading Stations

Portable hoses used for filling water containers shall be provided with a metal disk at the nozzle to prevent contact of nozzle with ground or floors. When not in use, the portable hoses shall be protected from dirt and contamination by storage in a tightly enclosed cabinet and shall have a cap to cover the nozzle

12:025 Issuance Of Emergency Boil Notices

An Emergency Boil Notice, when it is deemed necessary to protect public health, shall be authorized only by the State Health Officer. Once implemented, said notice may be rescinded or cancelled only by the State Health Officer.

12:026 Adoption By Reference

The National Primary Drinking Water Regulations, as defined in Section 12:001, are hereby incorporated by reference into this Chapter of the Sanitary Code and shall have the same force and effect of State law as any other section of this Chapter just as if they had been fully published herein. Every public water system shall comply with the National Primary Drinking Water Regulations as defined herein. When the National Primary Drinking Water Regulations as defined herein and the State's own rules and/or regulations applicable to public water systems conflict, the State's own rules and/or regulations shall govern [e.g., the Louisiana Total Coliform Rule (Appendix C) provisions shall govern when any of the federal Total Coliform Rule provisions are found to conflict].

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 26:

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AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Health Services and Environmental Quality, LR 10:210 (March 1984), amended by the Department of Health and Hospitals, Office of Public Health, LR 14:630 (September 1988), amended LR 26:

Appendix A

Civil Penalty Assessment Rule

I. Statement of Purpose

1.1 This rule is intended to be a mechanism to secure rapid and full compliance with the requirements of the State Sanitary Code and other applicable laws and regulations relative to public water systems providing safe drinking water. It is not intended as a revenue gathering mechanism, and the Safe Drinking Water Program is not dependent upon any level of penalty revenue to balance its budget. It is based on the principle of reasonable enforcement guidelines to be vigorously implemented. As defined by LSA - R.S. 40:5.9, penalties may be assessed only on the basis of non-compliance with corrective orders, rather than on the basis of the mere existence of a violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), amended LR 26:

II. General Provisions

2.1 Nothing herein shall be construed to prohibit the state health officer from modifying the contents of an administrative order if changes are warranted to ensure compliance with applicable laws and regulations or to allow for the practical ability to comply with the items so ordered. It is incumbent upon the person to whom the administrative order was issued to submit a written request for order modifications when, for instance, it is realized that compliance cannot be achieved within the time constraints specified in the order due to unforeseen problems or delays

such as inclement weather conditions. Such requests shall be considered if the request is received by the state health officer not later than five (5) days before the compliance deadline expires. In order to show proof and date of service, the person requesting any order modifications shall do so by at least one of the following methods:

A. Use of the United States Postal Service via certified mail-return receipt requested, registered mail-return receipt requested, or express mail-return receipt requested.

B. Transmission by facsimile machine will also be accepted; however, the state health officer shall be deemed not to have officially received a facsimile transmission until such time as the requester has received a written acknowledgement, via facsimile or mail, of receipt from the Office of Public Health. Said acknowledgement of receipt shall state the date when the Office of Public Health actually received the transmission and this date, regardless the sender's transmission date, shall be used in the determination of whether or not the time limit stated above was met. It is the responsibility of the sender to ask the Office of Public Health for a written acknowledgement of receipt of any facsimile transmissions which may be sent to the state health officer.

C. Use of a private shipping service, such as United Parcel Service, Federal Express, etc. when such a service can provide a written receipt to the sender stating the date of delivery to the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), amended LR 26:

2.2 Additionally, nothing herein shall be construed to mandate that the state health officer is required to assess penalties in the event of noncompliance with a provision of an administrative compliance order issued pursuant to LSA - R.S. 40:5.9; however, this rule is intended to delineate the procedure for calculating the monetary amount of the civil penalty assessment after the state health officer has decided to assess and impose penalties for noncompliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), amended LR 26:

2.3 When reference is made to a public water system herein, such reference is limited to an individual public water system uniquely identified by its own Public Water System Identification Number (PWS ID No.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), amended LR 26:

III. Calculation of Daily Penalties

3.1 LSA - R.S. 40:5.9(A) authorizes the state health officer to assess a civil penalty up to \$3,000 a day for each day of violation and for each act of violation of a provision of an administrative compliance order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), amended LR 26:

3.2 For purposes of implementation of LSA - R.S. 40:5.9, violation of one or more provisions of an administrative compliance order shall be handled as follows:

A. All violations for a given public water system shall be handled as a package (i.e., the statutory maximum daily penalty of \$3000 per day per violation will be handled as a maximum daily penalty of \$3000 per day per public water system regardless of the number of individual violations). The daily penalty assessment amount shall be based upon the most serious uncorrected violation. As the level of seriousness classification or the level of culpability associated with the most serious uncorrected violation in the package changes, the daily penalty assessment amount will be recalculated accordingly from that time forward and added to any previously calculated assessment amounts.

B. In lieu of the requirements of Section 3.2(A) above, the state health officer, at his sole discretion, is authorized to impose a penalty of no less than \$1000 per day per violation for those public water systems serving more than 10,000 individuals [see Fed. Reg.: April 28, 1999 (Volume 63, Number 81, page 23,367)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), amended LR 26:

3.3 The maximum daily penalty applicable to a particular public water system in violation of one or more of the provisions of an administrative compliance order shall be determined as follows:

A. When a penalty is calculated pursuant to Section 3.2(A) above, the maximum daily penalty shall be set at \$1 dollar per service connection per day based upon the number of service connections listed on Office of Public Health records on the day the administrative order was first issued, but within the following limitations and restrictions:

1. The maximum daily penalty for public water systems having more than 3,000 service connections shall be \$3,000 per day.

2. The maximum daily penalty for public water systems having less than 30 service connections shall be \$30 per day.

B. When a penalty is calculated pursuant to Section 3.2(B) above, the maximum daily penalty shall be set at \$1 dollar per service connection per day per violation based upon the number of service connections listed on Office of Public Health records on the day the administrative order was first issued, but within the following limitations and restrictions:

1. The maximum daily penalty for public water systems having more than 3,000 service connections shall be \$3,000 per day per violation.

2. The maximum daily penalty for public water systems having 2500 service connections (i.e., equivalent to 10,000 individuals served) shall be \$2500 per day per violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), amended LR 26:

3.4 Pursuant to Sections 3.2 and 3.3 above, the exact level of the daily penalty shall be based on the seriousness of the

violation and culpability of the owner and/or operator as follows:

A. Using the maximum daily penalty specified in Section 3.3 above as the basis for calculation, 50 percent of the maximum daily penalty amount shall be judged on the seriousness of the violation and the other 50 percent shall be judged on the culpability of the owner and/or operator.

B. The decision regarding the exact penalty assessment amounts for the seriousness of the violation(s) and the accompanying culpability of the owner and/or operator shall be made by the state health officer after considering a staff recommendation based upon the "Accompanying Guidelines to the Civil Penalty Assessment Rule" (Appendix B).

C. When the state health officer utilizes Section 3.2(B) as the basis for penalty calculation, the minimum daily penalty assessment amount shall in no case be less than \$1000 per day per violation after the provisions of Sections 3.4(A) and 3.4(B) are applied [see Fed. Reg.: April 28, 1999 (Volume 63, Number 81, page 23,367)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), amended LR 26:

3.5 The duration of non-compliance with a provision of the administrative compliance order shall be determined as follows:

A. Once an administrative order has become final and not subject to further administrative review, the state health officer shall direct staff to conduct an initial investigation for the purpose of determining compliance/non-compliance with the provision(s) of the administrative order. The initial investigation shall be conducted within five working days after the time limit granted for compliance within the administrative order ends. If upon agency investigation it is found that non-compliance still exists, staff will immediately provide a copy of the investigatory report to the person on-site in responsible charge of the public water system which will serve to notify the person to whom the administrative order was issued that the agency has determined that non-compliance still exists and that daily penalty assessments shall begin to accrue immediately from this date forward until such time as the agency has been notified by the public water system that compliance has been achieved. If a representative of the public water system is not present or reasonably available at the time of the agency's investigation, staff shall, on the same day as the investigation, attempt to contact via telephone or facsimile machine the person to whom the administrative order was issued or such other responsible person in the employ of the public water system in order to provide speedy notification of results which are deemed by agency staff to cause the continuance of daily penalty assessments. In the latter case involving only verbal or electronic communication, agency staff shall, as soon as possible thereafter, transmit a copy of the investigatory report to the person to whom the administrative order was issued by one of the methods of mailing stated in Section 2.1(A) above.

B. After the agency has conducted the initial investigation, determined that non-compliance with a provision of the administrative order still exists, and has provided a copy of the investigatory report as stated in Section 3.5(A) above, it then becomes incumbent upon the

person to whom the administrative order was issued to notify the agency when compliance has been achieved. In order to show proof and date of service, such notice advising the agency of compliance shall be transmitted to the agency in the same manner as described in Section 2.1(A), (B), or (C) above. Until such time as the agency has been properly notified of correction, the agency will consider the duration to begin on the date of the initial investigation and will presume that such violation is continuing on a daily basis until such time as the agency has received notification of correction. Once the agency is notified of correction, agency staff shall conduct a follow-up investigation in order to confirm compliance. Such follow-up investigation shall be conducted within 10 working days of agency receipt of the public water system's notice of compliance. If upon agency's follow-up investigation it is found that non-compliance still exists, staff will so advise the public water system in the same manner as done for initial investigations with the exception that the public water system will be advised that previously running daily penalty assessments have and will continue to accrue pending yet additional notification of compliance by the public water system to the agency. When the results of the follow-up investigation confirm that compliance has in fact been achieved, then the date that the agency received notification of compliance from the public water system for the particular provision of the administrative order in question shall be considered the last day of non-compliance for purposes of calculating the duration for non-compliance with this particular provision.

C. The steps described in Section 3.5(A) or (B) above may continue for an indefinite period of time but shall end once compliance has been confirmed by agency staff unless such violation is found to reoccur while the administrative order is still in effect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), amended LR 26:

IV. Payment of Penalty/Ability to Request Mitigation of Penalty and/or Adjudicatory Hearing

4.1 At the discretion of the state health officer, notice(s) imposing penalty assessments may be issued from time to time subsequent to either initial non-compliance with any provision of the administrative compliance order or subsequent to any continuance or reoccurrence of non-compliance while the administrative compliance order remains effective. Notices of imposition of penalties shall be served by one of the forms of service described in Section 2.1(A) above or hand-delivered. Within the notice imposing the penalty assessment, the state health officer will inform the owner and/or operator of the public water system of the ability to apply for mitigation of the penalties imposed and for the opportunity for an adjudicatory hearing on the record relative to contesting the imposition of the penalty assessment. Penalties shall not be imposed upon any person without notice and opportunity for hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), amended LR 26:

4.2 Once a penalty assessment is imposed, it shall become due and payable 35 days after receipt of notice imposing the penalty unless a written application for mitigation or a written request for an adjudicatory hearing on the record relative to contesting the imposition of the penalty assessment is received by the state health officer within 20 days after said notice is served. In order to show proof and date of service, the person applying for mitigation or an adjudicatory hearing shall transmit the written application for mitigation or written request for hearing to the agency in the same manner as described in Section 2.1(A), (B), or (C) above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), amended LR 26:

4.3 Upon receipt of a written application for mitigation of such penalty, the state health officer may mitigate the penalty, i.e., upon proof that all of the stipulations in the administrative order have now been complied with or upon agreement to and compliance with a Stipulation and Agreed Order setting out the conditions which will mitigate the penalty. The accompanying guidelines referenced in section 3.4(B) above shall also contain guidance for the state health officer when considering the amount of mitigation of the imposed penalty. When the amount of the penalty imposed is from \$1,000 up to \$5,000, the state health officer shall not mitigate the penalty below \$500. When the amount of the penalty imposed is less than \$1000, the state health officer shall not mitigate the penalty below one-half of the imposed penalty amount. The penalty shall become due and payable 35 days after mailing of notice setting forth the final disposition of the application for mitigation, unless

(i) an application for an adjudicatory hearing to contest the disposition is received within 20 days after the date of mailing the disposition notice, or

(ii) the state health officer specifies a different payment schedule within the disposition notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), LR 26:

4.4 Upon the timely receipt of a written application requesting an adjudicatory hearing, a hearing on the record relative to contesting the imposition of the penalty assessment may be scheduled by the agency. If after consideration of the record it is found that the issuance of the notice imposing the penalty assessment was not proper as supported by and in accordance with the evidence, the administrative law judge shall have the authority to recommend adjustment of the penalty to comply with any items found to be in error or, if justified, withdrawal of the entire penalty. The penalty shall become due and payable 35 days after mailing of notice of the final decision by the agency, unless the final decision by the agency specifies a different payment schedule within the final decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), LR 26:

4.5 When a Stipulation and Agreed Order has been proposed by the agency or the administrative law judge, a fixed number of days will be given for response. If the Stipulation and Agreed Order is not signed and returned by the date fixed or if no response is received by the date fixed, this shall result in both the reimposition of the penalty originally imposed as well as the addition of daily penalties not previously counted from the time the order was first violated. Alternatively, failure of a public water system to comply with the conditions of a Stipulation and Agreed Order shall result in both the reimposition of the penalty originally imposed as well as the addition of daily penalties not previously counted from the time the order was first violated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), LR 26:

V. Court Appeals

5.1 A person who is aggrieved by a final decision of the agency relative to penalty imposition may petition for judicial review according to the provisions of LSA - R.S. 49:964 of the Administrative Procedure Act. Proceedings for review may be instituted by filing a petition in the Nineteenth Judicial District Court, Parish of East Baton Rouge, within 30 days after mailing of notice of the final decision by the agency. Copies of the petition shall be served upon the agency and all parties of record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), LR 26:

Appendix B Accompanying Guidelines to the Civil Penalty Assessment Rule

I. Statement of Purpose

1.1 The purpose of these "Accompanying Guidelines to the Civil Penalty Assessment Rule" (Appendix B) are as follows:

A. This rule is intended to provide guidance for Safe Drinking Water Program staff in making recommendations to the state health officer regarding the exact penalty assessment amounts for the seriousness of the violation(s) and the culpability of the owner and/or operator when it has been determined that a public water system has failed to comply with the directives of an administrative order.

B. Additionally, guidance relative to determining mitigated penalty amounts are also contained herein. Such mitigation guidance is applicable irrespective of the method used in the calculation of penalties, i.e., irrespective of whether 3.2 (A) or 3.2 (B) of the "Civil Penalty Assessment Rule" (Appendix A) was used.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), amended LR 26:

II. Seriousness of Violation

2.1 Pursuant to Sections 3.2 and 3.4 of the "Civil Penalty Assessment Rule (Appendix A), the following penalty assessment levels shall apply towards the seriousness of the violation (public health risk) for the various classifications

of violations described in Subpart 4 of the "Accompanying Guidelines to the Civil Penalty Assessment Rule" (Appendix B):

A. Imminent threat (high risk) type violations shall be assessed at 100 percent of one-half of the maximum daily penalty amount.

B. Priority threat (moderate risk) type violations shall be assessed at 65 percent of one-half of the maximum daily penalty amount.

C. Non-imminent threat (low risk) type violations shall be assessed at 35 percent of one-half of the maximum daily penalty amount.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), amended LR 26:

III. Culpability of the Owner and/or Operator

3.1 Pursuant to Sections 3.2 and 3.4 of the "Civil Penalty Assessment Rule" (Appendix A), the following penalty assessment levels shall apply towards the culpability (the level of blame for the occurrence and/or continuance of a violation including factors such as attitude as well as the nature and extent of the efforts to comply) of the owner and/or operator for the particular violation for which a seriousness penalty is assessed:

A. Culpability determined to be deliberate or intentional (a willful action or lack of action) shall be assessed at 100 percent of one-half of the maximum daily penalty amount.

B. Culpability determined to be recklessness (wanton disregard of the consequences but proceeded with risk in mind) shall be assessed at 65 percent of one-half of the maximum daily penalty amount.

C. Culpability determined to be negligence (failure to prevent the violation due to indifference, lack of reasonable care, lack of diligence, etc.) shall be assessed at 35 percent of one-half of the maximum daily penalty amount.

D. Culpability determined to be non-existent (those cases where the operator and/or owner has acted reasonably, but the violation occurred anyway) shall be assessed at zero percent of one-half of the maximum daily penalty amount, i.e., \$ 0.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), amended LR 26:

IV. Classification of Violations

4.1 The various types of violations which can occur are classified into three levels of seriousness based upon their public health risk. The three levels of seriousness are defined as follows:

A. *Imminent threat* type violations are defined as those violations considered to be of an acute risk to public health requiring an immediate action or response by the owner and/or operator of a public water system. Imminent threat type violations include, but are not limited to, the following:

1. exceeding maximum contaminant levels for nitrate.
2. exceeding the maximum contaminant level for total coliform when fecal coliform or *E. coli* is present in the water distribution system.
3. occurrence of a water-borne disease outbreak in an unfiltered surface water system or an unfiltered ground

water system which is under the direct influence of surface water.

4. any violation specified by the State Health Officer as posing an acute risk to human health.

5. failure to comply with any remedial action(s) ordered in the context of an emergency order issued by the state health officer, such as but not limited to *Boil Notices*.

6. failure to give public notification of an acute violation (Tier 1 - Acute) within the time frames allowed by law or duly adopted rule.

B. *Priority threat* type violations are defined as those violations considered to be of a moderate risk to public health but which could result in an acute risk and therefore require an immediate action or response by the owner and/or operator. Priority threat violations include, but are not limited to, the following:

1. exceeding the maximum contaminant level for total coliform.

2. failure to comply with a treatment technique requirement.

3. failure to comply with a variance or exemption schedule.

4. exceeding the maximum contaminant level for a physical, radiological, or chemical (other than nitrate) contaminant. For the purpose of clarification, a physical contaminant is defined as turbidity, temperature, conductivity, color, taste, or odor.

5. failure to perform compliance monitoring as required for any bacteriological, physical, radiological, or chemical contaminant.

6. failure to utilize either a laboratory certified by the Office of Public Health or an Office of Public Health laboratory which has been certified by EPA for compliance monitoring determination of any bacteriological, physical, radiological, or chemical contaminant in drinking water when such contaminant determination is required by law or duly adopted rule to be analyzed by an EPA or State-certified laboratory.

7. failure to perform proper testing procedures for turbidity, disinfectant residual, temperature, pH, conductivity, alkalinity, calcium, silica, orthophosphate, or any other parameter which is not required to be analyzed in an EPA or State-certified laboratory but the results of which are required to be reported to the State for compliance monitoring determinations.

8. failure to report the results of any test measurement or analysis to the State within the time frame allowed by law or duly adopted rule.

9. failure to comply with any remedial action(s) ordered in the context of a non-emergency order issued by the state health officer.

10. failure to give public notification of a non-acute (Tier 1 - Non-Acute) violation within the time frames allowed by law or duly adopted rule.

C. *Non-imminent threat* violations are defined as those violations considered to be of a low risk to public health which do not require an immediate response by the owner and/or operator. These include operational deficiencies, facility deficiencies, and administrative deficiencies. Non-imminent threat type violations include, but are not limited to, the following:

1. failure to give public notification of a monitoring violation, testing procedure violation, variance grant or existence, or exemption grant or existence (Tier 2) within the time frames allowed by law or duly adopted rule.

2. failure to comply with an operational or maintenance requirement.

3. failure to comply with design and construction standards as required by law or duly adopted rule.

4. failure to submit plans and specifications as required by law or duly adopted rule.

5. failure to comply with an operator certification requirement.

6. failure to submit to the State, within the time frames allowed by law or duly adopted rule, a representative copy of each type of public notice distributed, published, posted, and/or made available to the persons served by the system and/or to the news media.

7. failure to maintain records as prescribed by law or duly adopted rule, such as but not limited to, bacteriological and chemical analyses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), LR 26:

V. Mitigation Guidance

5.1 Section 4.3 of the "Civil Penalty Assessment Rule" (Appendix A) allows the state health officer to mitigate penalties that have been imposed generally either upon proof that all of the provisions in the administrative compliance order have now been complied with or upon compliance with terms of a Stipulation and Agreed Order. The following guidance will be used by the state health officer upon such mitigation proceedings:

A. When considering mitigation of the imposed penalty upon receipt of written application requesting such mitigation, the state health officer shall have the discretion to reduce the imposed penalty beginning at a reduction rate of zero percent up to no more than 90 percent. The ordinarily expected mitigation reduction rate shall be 50 percent of the assessed penalty for the first 60 days of assessed penalty and an 80 percent reduction rate for penalties assessed beyond day 60. Using this procedure, if the end result of the calculated mitigated penalty amount is less than the minimum mitigation limits specified in Section 4.3 of the "Civil Penalty Assessment Rule" (Appendix A), the minimum mitigation limits specified therein shall apply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:5.9(A)(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 18:387 (April 1992), amended LR 26:

Appendix C

Louisiana Total Coliform Rule

The State of Louisiana Department of Health and Hospitals (DHH) Office of Public Health (OPH) adopts the United States Environmental Protection Agency (EPA) Federal Total Coliform Regulations as published in the Federal Register, Volume 54, Number 124 Thursday, June 29, 1989. The Louisiana Total Coliform Rule is to be published as an addendum to Chapter XII of the State Sanitary Code. In order to clarify the State's discretionary

decisions allowed by the Federal requirements, the following is offered.

Coliform Routine Compliance Monitoring

Each public water supply must be monitored in accordance with a written sampling plan prepared by the public water supply (PWS) personnel in conjunction with the parish sanitarian. The sampling plan must be reviewed and approved by OPH District/Regional engineering staff. The sampling plan should include a map or sketch of the system with the points of collection (POC) identified along with the street address and/or sufficient information for an unfamiliar person to find the sampling site. The water supply must provide suitable taps which draw water directly from the mains or the service lines. Such taps provide for samples which are most representative of the quality of water provided without "interference" which may be caused by plumbing problems within residences or other structures. Use of such taps decreases the chance of "bad samples" resulting in a coliform maximum contaminant level (MCL) violation which requires public notification by the public water supply and an administrative enforcement action by the EPA/DHH against the public water supply. Community systems must be routinely monitored in accordance with Table 1.

Population served	Minimum number of routine samples per month	Population served	Minimum number of routine samples per month
25 to 1,000	1	59,001 to 70,000	70
1,001 to 2,500	2	70,001 to 83,000	80
2,501 to 3,300	3	83,001 to 96,000	90
3,301 to 4,100	4	96,001 to 130,000	100
4,101 to 4,900	5	130,001 to 220,000	120
4,901 to 5,800	6	220,001 to 320,000	150
5,801 to 6,700	7	320,001 to 450,000	180
6,701 to 7,600	8	450,001 to 600,000	210
7,601 to 8,500	9	600,001 to 780,000	240
8,501 to 12,900	10	780,001 to 970,000	270
12,901 to 17,200	15	970,001 to 1,230,000	300
17,201 to 21,500	20	1,230,001 to 1,520,000	330
21,501 to 25,000	25	1,520,001 to 1,850,000	360
25,001 to 33,000	30	1,850,001 to 2,270,000	390
33,001 to 41,000	40	2,270,001 to 3,020,000	420
41,001 to 50,000	50	3,020,001 to 3,960,000	450
50,001 to 59,000	60	3,960,001 or more	480

Non-Community systems using ground water must routinely monitor once in each calendar quarter during which the system provides water to 1000 or less persons. A non-community system using ground water and serving more than 1000 persons must monitor monthly in accordance with Table 1. Any non-community using any surface water, or using ground water under the direct influence of surface water must monitor in accordance with Table 1.

The public water supply must collect samples at regular time intervals throughout the month unless the state staff specifies otherwise or state staff collect the samples.

Special purpose samples (investigative samples) shall not be used to determine compliance with the total coliform MCL.

Coliform Repeat Monitoring

If a routine sample is total coliform positive and the public water supply has their own certified laboratory, repeat samples must be collected by the public water supply within 24 hours of being notified of the positive result. If the state collects and analyzes the samples, repeat samples will be collected by parish health unit staff within 24 hours of official notification. The number of repeat samples collected shall be in accordance with Table 2.

Table 2 Monitoring and Repeat Sample Frequency After a Total Coliform Positive Routine Sample		
No. routine samples/month	No. repeat samples/positive	No. routine samples next month
1/month or fewer	4	5/month
2/month	3	5/month
3/month	3	5/month
4/month	3	5/month
5/month or greater	3	Table 1

At least one repeat sample must be collected from the sampling tap where the original total coliform positive sample was taken and at least one repeat sample at a tap within five service connections upstream and at least one repeat sample at a tap within five service connections downstream of the original sampling site. The fourth sample must come from a tap within five service connections upstream or within five service connections downstream. The fourth sample may not come from the original sampling site. If a total coliform-positive sample is at the end of the distribution system, or one away from the end of the distribution system the requirement to collect at least one repeat sample upstream or downstream of the original sampling site is waived.

The repeat samples must be collected on the same day. In a system with a single service connection, four 100ml repeat samples must be collected. Three 100ml samples must be collected in a system if more than one routine sample per month is collected.

If coliforms are detected in any repeat sample, the system must collect another set of repeat samples from the same location unless the MCL has already been violated and the State is aware of violation. If short term corrective actions are not successful, the public water supply must install continuous disinfection and implement a routine flushing program as directed by OPH.

Whenever a system that normally collects less than 5 routine distribution system samples each month receives a positive coliform analysis, it must collect at least 5 routine distribution system samples the next month regardless of the results of repeat sampling.

If a routine or repeat sample result is positive for total coliform, the sample must also be analyzed for fecal coliform or *E. coli* immediately.

Invalidation of Total Coliform Results

Analysis results may be invalidated under specified conditions, including:

1. The OPH acknowledges improper analysis occurred or background bacteriological interference was present.
2. The OPH determines the contamination is from an internal plumbing problem, not the distribution system.
3. The OPH concludes, and states in writing, that the result is due to some condition not related to water quality. This written conclusion must be signed by an OPH representative and made available to the public and EPA.

Total Coliform MCL

1. The maximum contaminant level (MCL) is based on the presence or absence of total coliform rather than on coliform density.
2. If 40 or more distribution system samples are collected per month, no more than 5 percent of the monthly samples may be total coliform positive.
3. If less than 40 distribution system samples are collected per month, no more than one sample per month may be total coliform positive.

NOTE: If collecting less than 40 samples per month, the second positive coliform analysis in any month will result in an MCL violation. If collecting more than 40 samples per month, occasional positives may be tolerated, as long as the number each month does not exceed 5 percent of the total samples.

4. A violation is considered acute and is subject to more stringent public notification requirements when:
 - a. A coliform-positive original sample that is also positive for fecal coliform (or *E. coli*) is followed by a positive coliform repeat sample, or
 - b. a coliform-positive original sample followed by a coliform-positive repeat sample is also positive for fecal coliform (or *E. coli*).

Public Notification

Public notification requirements remain unchanged from the 1989 revisions as specified.

If the MCL is exceeded, the supplier of water is required to provide public notice in a daily or weekly newspaper within 14 days. Where newspaper notice is not feasible for a non-community public water supply, continuous posting may be substituted. In addition to newspaper notice, a notice must also be provided to the consumers by direct mail or hand delivery within 45 days. For an acute MCL violation, a notice shall also be furnished by community systems only to radio and television stations serving the area within 72 hours.

In larger systems, an MCL violation and public notice may be confined to a portion of the distribution system.

In addition, public notification is required within 3 months if a supplier of water fails to comply with a monitoring and/or reporting requirement.

If a replacement sample can not be analyzed and give a readable result, the public water supply will be assessed a monitoring violation and must give appropriate public notification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:670 (July 1991), LR 26:

Appendix D

Surface Water Treatment Rule

Section 1: General Requirements and Definitions

1.01. General Requirements

A. For public water systems using surface water or groundwater under the direct influence of surface water, this chapter establishes treatment techniques in lieu of maximum contaminant levels for the following microbial contaminants: *Giardia lamblia* (cysts), viruses, heterotrophic plate count bacteria, *Legionella*, and turbidity.

B. Each supplier using an approved surface water or groundwater under the direct influence of surface water shall provide multibarrier treatment necessary to reliably protect users from the adverse health effects of microbiological contaminants and to comply with the requirements and performance standards prescribed in this chapter.

C. Within 90 days from the date of notification by the Department of Health and Hospitals, hereinafter referred to as DHH, that the supplier has a treatment plant and/or a surface water supply that does not meet the requirements of this chapter, the supplier shall submit for DHH approval a plan and schedule to bring its system into compliance as soon as feasible.

D. If the supplier disagrees with the DHH's notification, then the supplier shall submit reasons and evidence for its disagreement within 30 days from the receipt of the notification unless an extension of time to meet this requirement is requested and granted by the DHH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:271 (March 1991), amended LR 26:

1.02. Definitions

A. Approved Surface Water. "Approved surface water" means a surface water or groundwater under the direct influence of surface water that has received permit approval from the DHH.

B. Best Available Technology. "Best available technology" for filtration of surface water means conventional treatment which conforms with all of the requirements of this chapter.

C. Certified Operator. "Certified operator" is defined as the individual, as examined by the Committee of Certification as approved by the State Health Officer, meeting all requirements of State Law and regulation and found competent to operate a water supply or sewerage system.

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

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

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

continuously added to the feed water to maintain the permeability of the filter cake.

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

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

I. Disinfectant Contact Time. "Disinfectant contact time" means the time in minutes that it takes for water to move from the point of disinfectant application or a previous point of disinfectant residual measurement to a point before or at the point where residual disinfectant concentration is measured. The point of measurement must be before the first customer. Disinfectant contact time in pipelines is calculated by dividing the internal volume of the pipe by the flow rate through the pipe. Disinfectant contact time with mixing basins and storage reservoirs is determined by tracer studies or an equivalent demonstration to the DHH.

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

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

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

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

N. Groundwater Under the Direct Influence of Surface Water. "Groundwater under the direct influence of surface water" means any water beneath the surface of the ground with significant occurrence of insects or other macroorganisms, algae or large diameter pathogens such as *Giardia lamblia*, or significant and relatively rapid shifts in site specific water characteristics such as turbidity, temperature, conductivity or pH which closely correlate to climatological or surface water conditions. The DHH determination of direct influence may be based on an evaluation of site specific measurements of water quality and/or well characteristics and geology with field evaluation.

O. Heterotrophic Plate Count. "HPC" means heterotrophic plate count analysis (#907) using instrumentation and methods as described in the 16th edition of Standard Methods for the Examination of Water and Wastewater.

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

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

R. NTU (Nephelometric Turbidity Unit). "Nephelometric Turbidity Unit (NTU)" means a measurement of the turbidity of water as determined by the ratio of the intensity of light scattered by the sample to the intensity of incident light, using instrumentation and

methods described in the 16th edition of Standard Methods for the Examination of Water and Wastewater.

S. Operator. "Operator" is defined as the individual, as determined by the Committee of Certification, in attendance on site of a water supply or sewerage system and whose performance, judgement and direction affects either safety, sanitary quality, or quantity of water distributed or treated, or sewage collected or treated.

T. Pressure Filter. "Pressure filter" means a pressurized vessel containing properly sized and graded granular media.

U. Qualified Engineer. "Qualified engineer" shall mean any engineer who has been registered under the provisions of the State of Louisiana, Act 568 or 1980 and who holds a current certificate issued by the Louisiana State Board of Registration for Professional Engineers and Land Surveyors, and who has knowledge and experience in water treatment plant design, construction, operation, and watershed evaluations.

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

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

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

Y. Supplier. "Supplier", for the purpose of this chapter, means the owner or operator of a water system for the provision to the public of piped water for human consumption, provided such system has at least 15 service connections or regularly serves at least 25 individuals daily at least 60 days out of the year.

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

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

BB. Virus. "Virus" means a virus which is infectious to humans by waterborne transmissions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:271 (March 1991), amended LR 26:

Section 2. Treatment Requirements and Performance Standards

2.01. Treatment Requirements

A. Each supplier using surface water or groundwater under the direct influence of surface water shall provide multibarrier treatment that meets the requirements of this chapter and reliably ensures at least:

1. A total of 99.9 percent (3 Log) reduction of *Giardia* cysts through filtration and disinfection.
2. A total of 99.99 percent (4 Log) reduction of viruses through filtration and disinfection.

3. The total reductions to be required by the DHH may be higher and are subject to the source water concentration of *Giardia lamblia* and viruses.

B. Suppliers meeting the requirements of Sections 2.02 and 2.04 shall be deemed to be in compliance with the minimum reduction requirements specified in Section 2.01(A).

C. Section 2.03 presents requirements for non-filtering systems. All suppliers which use surface water as a source must provide filtration. On a case by case basis, systems using groundwater under the direct influence of surface water may not be required to filter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:271 (March 1991), amended LR 26:

2.02. Filtration

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

1. Conventional filtration treatment
2. Direct filtration treatment
3. Slow sand filtration
4. Diatomaceous earth filtration

B. Conventional filtration treatment shall be deemed to be capable of achieving at least 99.7 percent (2.5 Log) removal of *Giardia* cysts and 99 percent (2 Log) removal of viruses when in compliance with operation criteria (Section 4) and performance standards (Sections 2.02 and 2.04). Direct filtration treatment, and diatomaceous earth filtration and shall be deemed to be capable of achieving at least 99 (2 Log) percent removal of *Giardia* cysts and 90 (1 Log) percent removal of viruses when in compliance with operation criteria (Section 4) and performance standard (Section 2.02 and 2.04). Slow sand filtration shall be deemed *Giardia* to be capable of achieving at least 99 (2 Log) percent removal of *Giardia* and 99 (2 Log) percent removal of viruses when in compliance with operation criteria and performance standards.

Filtration Method	Expected Minimum Log Removals		Remaining Minimum Disinfection Log Inactivation	
	<i>Giardia</i>	Viruses	<i>Giardia</i>	Viruses
	Conventional	2.5	2.0	0.5
Direct	2.0	1.0	1.0	3.0
Slow Sand	2.0	2.0	1.0	2.0
Diatomaceous Earth	2.0	1.0	1.0	3.0

Additional treatment removal credit for conventional or direct filtration may be allowed at state discretion to a maximum of 3 Log removal of *Giardia* cysts and 3 Log removal of viruses considering:

1. Demonstration that the total treatment train achieves
 - a. At least 99 percent turbidity removal or filtered water turbidities are consistently less than 0.5 NTU or

b. A 99.9 percent removal of particles in the size range of 5 to 15 µm.

2. HPC count in finished water is consistently less than 10/ml.

3. Demonstration of removal/inactivation of *Giardia* and viruses

4. Process steps elevating process water above pH 9.0 (not necessarily finished water)

5. Filter bed depth in excess of 48 inches

6. Oxidant effect of chemicals feed for alternate purposes (i.e. taste and odor)

If DHH allows additional removal credit for the treatment process, minimum disinfection shall still not be less than reported in the above table. Expected minimum removal credits are listed in Table 1, Section 2.02 B with the corresponding remaining disinfection required.

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

1. The turbidity level of the filtered water shall be equal to or less than 0.5 NTU in 95 percent of the measurements taken each month.

2. For conventional treatment a higher filtered water turbidity, to a maximum of 1.0 NTU in 95 percent of the measurements taken each month, may be allowed at DHH discretion provided the system is achieving previously identified minimum removal and/or inactivation of *Giardia* cysts at the higher turbidity level.

Such a determination may be based upon an analysis of existing design and operating conditions and/or performance relative to certain water quality characteristics. The design and operating conditions to be reviewed include:

a. the adequacy of treatment prior to filtration.

b. the percent turbidity removal across the treatment train, and

c. level of disinfection.

Water quality analysis which may also be used to evaluate the treatment effectiveness include particle size counting before and after the filter. Pilot plant challenge studies simulating full scale operation may also be used to demonstrate effective treatment. Depending on the source water quality and system size, DHH will determine the extent of the analysis and whether a pilot plant demonstration is needed. For this demonstration, systems are allowed to include disinfection in the determination of the overall performance by the system.

3. Filtered water turbidity may not exceed 5 NTU at any time.

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

1. The turbidity level of the filtered water shall be less than or equal to 1.0 NTU in 95 percent of the measurements taken each month. However, filtered water from the treatment plant may exceed 1.0 NTU, provided the filter effluent prior to disinfection does not exceed the maximum contaminant level for total coliforms.

2. The turbidity level of the filtered water does not exceed 5.0 NTU at any time.

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

1. The filtered water turbidity must be less than or equal to 1.0 NTU in 95 percent of the measurements each month.

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

F. An alternative to the filtration technologies specified in Section 2.02(A) may be used provided the supplier demonstrates to the DHH that the alternative technology, 1) provides a minimum of 99 percent *Giardia* cyst removal and 99 percent virus removal and 2) meets the turbidity performance standards established in Section 2.02(C). The demonstration shall be based on the results from a prior equivalency demonstration or a testing of a full scale installation that is treating a water with similar characteristics and is exposed to similar hazards as the water proposed for treatment. A pilot plant test of the water to be treated may also be used for this demonstration if conducted with the approval of the DHH. The demonstration shall be presented in an engineering report prepared by a qualified engineer. Additional reporting for the first full year of operation of a new alternative filtration treatment process approved by the DHH, may be required at DHH discretion. The report would include results of all water quality tests performed and would evaluate compliance with established performance standards under actual operating conditions. It would also include an assessment of problems experienced, corrective actions needed, and a schedule for providing needed improvements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:271 (March 1991), amended LR 26:

2.03. Non-Filtering Systems

A. General. On a case-by-case basis, DHH may waive filtration requirements for suppliers using groundwater under the direct influence of surface water. To be considered, non-filtering systems must conform to the criteria of this section. All suppliers using surface water must employ filtration.

B. Source Water Quality to Avoid Filtration

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

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

b. Sample analyses methods may be multiple tube fermentation method or membrane filter test as described in the 16th edition of Standard Methods.

c. Minimum sampling frequencies:

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

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

2. To avoid filtration, the turbidity of the water prior to disinfection cannot exceed 5 NTU based on grab samples collected every four hours (or more frequently) that the system is in operation. Continuous turbidity measurement is allowed provided the instrument is validated at least weekly.

C. Disinfection Criteria to Avoid Filtration

1. To avoid filtration, a system must demonstrate that it maintains disinfection conditions which inactivate 99.9 percent (3 Log) of *Giardia* cysts and 99.99 percent (4 Log) of viruses everyday of operation except any one day each month. To demonstrate adequate inactivations, the system must monitor and record the disinfectant used, disinfectant residual, disinfectant contact time, pH, and water temperature, and use these data to determine if it is meeting the minimum total inactivation requirements of this rule.

a. A system must demonstrate compliance with the inactivation requirements based on conditions occurring during peak hourly flow. Residual measurements shall be taken hourly. Continuous monitors are acceptable in place of hourly samples.

b. pH and Temperature must be determined daily for each disinfection sequence prior to the first customer.

2. To avoid filtration, the system must maintain a minimum residual of 0.2 mg/L entering the distribution system and maintain a detectable residual throughout the distribution system. Performance standards shall be as presented in Section 2.04 B and C.

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

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

b. An automatic shut off of delivery of water to the distribution system when the disinfectant residual level drops below 0.2 mg/l.

D. Site Specific Conditions To Avoid Filtration. In addition to the requirement for source water quality and disinfection, systems must meet the following criteria to avoid filtration:

- C maintain a watershed control program
- C conduct a yearly on-site inspection
- C determine that no waterborne disease outbreaks have occurred
- C comply with the revised annual total coliform MCL
- C comply with TTHM Regulations

1. A watershed control program for systems using groundwater under the influence of surface water shall include as a minimum, the requirements of the Wellhead Protection Program, delineated as follows:

a. Specify the duties of State agencies, local governmental entities and public water supply systems with

respect to the development and implementation of The Program;

b. Determine the wellhead protection area (WHPA) for each wellhead as defined in subsection 1428(e) based on all reasonably available hydrogeologic information, groundwater flow, recharge and discharge and other information the State deems necessary to adequately determine the WHPA;

c. Identify within each WHPA all potential anthropogenic sources of contaminants which may have any adverse effect on the health of persons;

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

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

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

g. Provide for public participation.

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

a. Review the effectiveness of the watershed control program.

b. Review the physical condition and protection of the source intake.

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

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

e. Review the condition of disinfection equipment.

f. Review operating procedures.

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

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

3. **Sanitary Survey.** In addition to the above requirements, a sanitary survey shall be performed every 5 years by the utility which uses groundwater under the influence of surface water without filtration. The sanitary survey shall include:

a. Review the condition of finished water storage facilities.

b. Determine that the distribution system has sufficient pressure throughout the year.

c. Verify that distribution system equipment has received regular maintenance.

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

- e. Review routine flushing program for effectiveness.
- f. Evaluate the corrosion control program and its impact on distribution water quality.
- g. Review the adequacy of the program for periodic storage reservoir flushing.
- h. Review practices in repairing water main breaks to assure they include disinfection.
- i. Review additions, improvements incorporated during the year to correct deficiencies detected in the initial inspection.
- j. Review the operations to assure that any difficulties experienced during the year have been adequately addressed.
- k. Review staffing to assure adequate numbers of properly trained and/or certified personnel are available.
- l. Verify that a regular maintenance schedule is followed.
- m. Audit systems records to verify that they are adequately maintained.
- n. Review bacteriological data from the distribution system for coliform occurrence, repeat samples and action response.

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

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

6. Total Trihalomethane (TTHM) Regulations. For a system using groundwater under the influence of surface water to continue using disinfection as the only treatment, the system must comply with current and (eventually) pending TTHM Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:271 (March 1991), amended LR 26:

2.04 Disinfection

A. All surface water or groundwater under the direct influence of surface water utilized by a supplier shall be provided with continuous disinfection treatment sufficient to ensure that the total treatment process provides inactivation of *Giardia* cysts and viruses, in conjunction with the removals obtained through filtration, to meet the reduction requirements specified in Section 2.01.

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

1. Water delivered to the distribution system shall contain a disinfectant residual of not less than 0.2 mg/l for more than four hours in any 24 hour period.

2. The residual disinfectant concentrations of samples collected from the distribution system shall be detectable in at least 95 percent of the samples each month, taken during any two consecutive months. At any sample point in the distribution system, the presence of heterotrophic plate count

(HPC) at concentrations less than 500 colony forming units per milliliter shall be considered equivalent to a detectable disinfectant residual.

C. Determination of Inactivation by Disinfection. Minimum disinfection requirements shall be determined by DHH on a case by case basis but shall not be less than those reported in Section 2.02(B). The desired level of inactivation shall be determined by the calculation of CT values; residual disinfectant concentration (C) times the contact times (T) when the basin is in operation. Disinfectant contact time must be determined by tracer studies.

1. The T10 value will be used as the detention time for calculating CTs. T10 is the detention time at which 90 percent of the flow passing through the vessel is retained within the vessel. Systems conducting tracer studies shall submit a plan to DHH for review and approval prior to the study being conducted. The plan must identify how the study will be conducted, the tracer used, flow rates, etc. The plan must also identify who will actually conduct the study. Tracer studies are to be conducted according to protocol found in standard engineering texts (such as Levenspiel), or the methodology in the EPA SWTR Guidance Manual.

2. On a case-by-case basis, alternate empirical methods of calculating T10 as outlined in the Guidance Manual may be accepted for vessels with geometry and baffling conditions analogous to basins on which tracer studies have been conducted and results have been published in the Guidance Manual or the literature.

3. Additional tracer studies may be required by DHH whenever modifications are made which could impact flow distribution, contact time, or disinfectant distribution.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:271 (March 1991), amended LR 26:

2.05. Design Standards

A. All new treatment and disinfection facilities shall be designed and constructed to meet the existing State Sanitary Code as modified by the requirements contained herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:271 (March 1991), amended LR 26:

Section 3: Monitoring Requirements

3.01. Filtration

A. Each supplier using a surface water or groundwater under the direct influence of surface water source shall monitor the turbidity level of the raw water supply by the taking and analyzing of a daily grab sample. Continuous monitoring may be substituted providing the accuracy of the measurements are validated weekly.

B. To determine compliance with the performance standards specified in Section 2.02, each supplier shall determine the turbidity level of representative samples of the combined filter effluent, prior to clearwell storage, at least once every four hours that the system is in operation.

C. For finished water turbidity, continuous turbidity measurements may be substituted for grab sample

monitoring provided the supplier validates the accuracy of the measurements on a weekly basis.

D. Suppliers using slow sand filtration or serving fewer than 500 people may reduce turbidity monitoring to one grab sample per day if DHH determines that less frequent monitoring is sufficient to indicate effective filtration performance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:271 (March 1991), amended LR 26:

3.02. Disinfection

A. To determine compliance with disinfection inactivation requirements specified in Section 2.02, each supplier shall develop and conduct a monitoring program to measure those parameters that affect the performance of the disinfection process. This shall include but not be limited to:

- 1) temperature of the disinfected water,
- 2) pH(s) of the disinfected water if chlorine is used as a disinfectant,
- 3) the disinfectant contact time(s), and
- 4) the residual disinfectant concentrations before or at the first customer.

B. To determine compliance with the performance standards specified in Section 2.02 or 2.04, the disinfectant residual concentrations of the water being delivered to the distribution system shall be measured and recorded continuously. If there is a failure of continuous disinfectant residual monitoring equipment, grab sampling every four hours may be conducted in lieu of continuous monitoring, but for no more than five working days following the failure of the equipment. The residual disinfectant concentrations must be measured at least at the same points in the distribution system and at the same time that total coliforms are sampled.

C. Suppliers serving fewer than 3300 people may collect and analyze grab samples of disinfectant residual each day in lieu of the continuous monitoring, in accordance with Table 2, provided that any time the residual disinfectant falls below 0.2 mg/l, the supplier shall take a grab sample every four hours until the residual concentrations is equal to or greater than 0.2 mg/l.

Table 2	
Disinfectant Residual Sampling	
System Population	Samples/Day
≤500	1
501-1,000	2
1,001-2,500	3
2,501-3,300	4

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:271 (March 1991), amended LR 26:

Section 4: Operation

4.01. Operating Criteria

A. All treatment plants utilizing surface water or groundwater under the direct influence of surface water shall be operated by operators certified by DHH.

B. Filtration facilities shall be operated in accordance with the following requirements:

1. Conventional and direct filtration plants shall be operated at flow rates not to exceed three gallons per minute per square foot (gpm/sq ft) for gravity filters. For pressure filters, if approved by DHH, filtration rates shall not exceed two gpm/sq ft.

2. Slow sand filters shall be operated at filtration rates not to exceed 0.10 gallons per minute per square foot. The filter bed shall not be dewatered except for cleaning and maintenance purposes.

3. Diatomaceous earth filters shall be operated at filtration rates not to exceed 1.0 gallon per minute per square foot.

4. In order to obtain approval for higher filtration rates than those specified in this section, a water supplier shall demonstrate to the Department that the filters can achieve an equal degree of performance.

5. Filtration rates shall be increased gradually when placing filters back into service following backwashing or any other interruption in the operation of the filter.

6. Pressure filters shall be physically inspected and evaluated annually for such factors as media condition, mudball formation, and short circuiting. A written record of the inspection shall be maintained at the treatment plant.

C. Disinfection facilities shall be operated in accordance with the following requirements:

1. A supply of chemicals necessary to provide continuous operation of disinfection facilities shall be maintained as a reserve or demonstrated to be available under all conditions and circumstances.

2. An emergency plan shall be developed prior to and implemented in the event of disinfection failure to prevent delivery to the distribution system of any undisinfected or inadequately disinfected water. The plan shall be posted in the treatment plant or other place readily accessible to the plant operator.

3. System redundancy and changeover systems shall be maintained and kept operational at all times to ensure no interruption in disinfection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:271 (March 1991), amended LR 26:

Section 5: Reporting

5.01. DHH Notification

The supplier shall notify DHH within 24 hours by telephone or other equally rapid means whenever:

A. The turbidity of the combined filter effluent as monitored exceeds 5.0 NTU at any time.

B. More than two consecutive turbidity samples of the combined filter effluent taken every four hours exceed 1.0 NTU.

C. There is a failure to maintain a minimum disinfectant residual of 0.2 mg/l in the water being delivered to the distribution system and whether or not the disinfectant residual was restored to at least 0.2 mg/l within four hours.

D. An event occurs which may affect the ability of the treatment plant to produce a safe, potable water including but not limited to spills of hazardous materials in the watershed and unit treatment process failures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:271 (March 1991), amended LR 26:

5.02. Monthly Report

A. Each supplier with a surface water or groundwater under the direct influence of surface water treatment facility shall submit a monthly report on the operation of each facility to the DHH by the 10th day of the following month.

B. The report shall include the following results of turbidity monitoring of the combined filter effluent:

1. All turbidity measurements taken during the month.

2. The number and percent of turbidity measurements taken during the month which are less than or equal to the performance standard specified for each filtration technology in Section 2.02, or as required for an alternative treatment process. The report shall also include the date and value of any turbidity measurements that exceed performance levels specified in Section 2.02.

3. The average daily turbidity level.

C. The report shall include the following disinfection monitoring results.

1. The date and duration of each instance when the disinfectant residual in water supplied to the distribution system is less than 0.2 mg/l and when the DHH was notified of the occurrence.

2. The following information on samples taken from the distribution system:

a. The number of samples where the disinfectant residual is measured.

b. The number of samples where only the heterotrophic plate count (HPC) is measured.

c. The number of measurements with no detectable disinfectant residual and no HPC is measured.

d. The number of measurements with no detectable disinfectant residual and HPC is greater than 500 colony forming units per milliliter.

e. The number of measurements where only HPC is measured and is greater than 500 colony forming units per milliliter.

D. The report shall include a written explanation of the cause of any violation of performance standards specified in Section 2.02, 2.03 or 2.04 and operating criteria specified in Section 4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:271 (March 1991), amended LR 26:

Section 6: Public Notification

6.01. Consumer Notification

1. The supplier shall notify persons served by the system whenever there is a failure to comply with the treatment technique requirements specified in Section 2.01 or performance standards specified in Sections 2.02, 2.03 and 2.04. The notification shall be give in a manner approved by the DHH, and shall include the following mandatory language:

"The La. Department of Health and Hospitals (DHH) sets drinking water standards and has determined that the presence of microbiological contaminants are a health concern at certain levels of exposure. If water is

inadequately treated, microbiological contaminants in that water may cause disease. Disease symptoms may include diarrhea, cramps, nausea, and possibly jaundice, and any associated headaches and fatigue. These symptoms, however are not just associated with disease-causing organisms in drinking water, but also may be caused by a number of factors other than your drinking water. DHH has set enforceable requirements for treating drinking water to reduce the risk of these adverse health effects. Treatment such as filtering and disinfecting the water removes or destroys microbiological contaminants. Drinking water which is treated to meet DHH requirements is associated with little to none of this risk and should be considered safe."

2. The supplier shall notify persons served by the system whenever there is a failure to comply with monitoring requirements specified in Section 3, the notification shall be given in the manner approved by DHH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 and 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 17:271 (March 1991), amended LR 26:

The Department of Health and Hospitals will conduct a public hearing at 10:00 a.m. on Tuesday, March 28, 2000, in Room 118 of the Blanche Appleby Computer Complex Bldg., (on the Jimmy Swaggert Ministry Campus), 6867 Bluebonnet Blvd., Baton Rouge. All interested persons are invited to attend and present data, views, comments, or arguments, orally and in writing.

In addition, all interested persons are invited to submit written comments on the proposed rule. Such comments must be received no later than Friday, March 31, 2000 at COB, 4:30 p.m., and should be submitted to R. Douglas Vincent, Chief Engineer, Office of Public Health, 6867 Bluebonnet Blvd. - Box 3, Baton Rouge, LA 70810 or faxed to (225) 765-5040.

David W. Hood
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Water Supplies (Chapter XII)

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

The Enforcement Unit of the Safe Drinking Water Program consists of 2 FTEs currently. It is the Enforcement Unit's job to draft administrative compliance orders and notices of imposition of penalties, etc., for the State Health Officer's signature. Adoption of this rule is not expected to significantly increase the workload of paperwork. Approximately \$4,631 is expected to be expended in FY 99-2000 for publication of the rule in the *Louisiana Register* and the printing of 500 copies for distribution to staff, the public (upon request), and the Offices of State Library.

Local governmental units may be affected by this proposed new rule if they: (1) own or operate a public water system serving greater than 10,000 individuals, (2) are issued an administrative compliance order by the state health officer; (3) violate one or more provisions of such order after the compliance deadline(s) specified therein expires; and, (4) the state health officer decides to impose a monetary penalty for

such noncompliance using the new authority granted by this proposed rule. Local governmental units owning or operating a public water system are already subject to the requirements of the existing Civil Penalty Assessment Rule (Appendix A) adopted in 1992. Therefore, the actual effect of the new rule would amount to potentially higher penalties than may currently be assessed, especially if more than one provision of the order was violated.

NOTICE OF INTENT

Department of Labor Office of the Secretary

Drug-Free Workplace and Drug Testing (LAC 40:XXI.101)

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

The purpose of the Safe Drinking Water Program's administrative order/penalty authority is to provide full and rapid compliance with requirements of the State Sanitary Code and other applicable laws and regulations relative to public water systems providing safe drinking water. Penalties are not intended to be revenue gathering mechanisms and the program is not dependent upon any penalty revenue to balance its budget. The state general fund could potentially see an increase in penalty funds being collected from noncomplying systems which are under an administrative order and which serves more than 10,000 individuals if the State Health Officer decides to utilize the "per violation per day" authority granted to him by statutory law and this rule.

Local governmental units which: (1) own or operate a public water system serving more than 10,000 individuals; (2) receive an administrative order from the State Health Officer; (3) fail to comply by the compliance deadline(s) stated therein; and, (4) receive a Notice of Imposition of Penalty from the State Health Officer which utilized the "per violation per day" basis instead of the existing "per package of violations per day" basis may be faced with a higher amount of penalty. If the local governmental unit chooses to utilize water rates to pay the penalty, this may in turn lead to yet a higher increase in water rates temporarily until the penalty is paid.

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

Any person, corporation, investor-owned utility company, etc., will be affected by this new rule if they: (1) own a public water system which serves greater than 10,000 individual; (2) are issued an administrative compliance order by the state health officer; (3) violate one or more provisions of such order after the compliance deadline(s) specified therein expires; and, (4) the state health officer decides to impose a monetary penalty for such noncompliance using the new authority granted by this proposed rule. Person, corporations, investor-owned utility companies, etc., are already subject to the requirements of the existing Civil Penalty Assessment Rule (Appendix A) adopted in 1992. Therefore, the actual effect of the new rule would amount to potentially higher penalties than may currently be assessed, especially if more than one provision of the order was violated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact is expected on competition and employment.

Madeline McAndrew
Assistant Secretary
0002#127

H. Gordon Monk
Staff Director
Legislative Fiscal Office

In accordance with the provisions for rule adoption under R.S. 49:950 et seq. of the Administration Procedure Act, and by virtue of the statutory authority vested by R.S. 36:304(3), notice is hereby given that the Office of the Secretary proposes to adopt the following rule.

The proposed adoption of such rule shall serve to fulfill the commitment of Executive Order MJF 98-38 for a drug-free workplace for the public employees of Louisiana and to therewith develop and implement drug testing programs pursuant to R.S. 49:1001, et seq.

All interested persons are invited to submit data, views, comments, or arguments, in writing, on the proposed rule to Dawn Watson, Deputy Secretary, Attention: Denise Nagel, Department of Labor, Box 94094, Baton Rouge, LA 70804-9094, or by FAX (225) 342-9771 no later than 5 p.m., Friday, March 24, 2000.

A public hearing shall be held on Wednesday, March 29, 2000, at 1:30 p.m. in the fourth floor conference room, Administrative Building of the Department of Labor, 1001 North 23rd Street, Baton Rouge, LA 70802.

Family Impact Statement

1. Effect on the Stability of the Family. These rules should have no effect on the stability of the family. These rules regulate drug testing of department employees in the workplace.

2. Effect of the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. These rules do not address education or parental supervision.

3. Effect on the Functioning of the Family. These rules should not impact the functioning of the family. The drug testing program does not impose any cost on the family.

4. Effect on Family Earnings and Family Budget. These rules should have no effect on family earnings.

5. Effect on the Behavior and Personal Responsibility of Children. These rules should have no effect on the behavior and personal responsibility of children as the rules apply only to department employees.

6. Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. These rules do not make any requirements on the family. These rules only apply to department employees.

Title 40

DEPARTMENT OF LABOR

Part XXI. A Drug-Free Workplace and Drug Testing Chapter 1. General Provisions §101. Drug Testing

A. Declaration of Policy

1. The employees of the state of Louisiana are among the state's most valuable resources, and the physical and

mental well being of these employees is necessary for them to properly carry out their responsibilities. Substance abuse causes serious adverse consequences to users, impacting on their productivity, health and safety, dependents, and co-workers, as well as the general public.

2. The state of Louisiana has a long-standing commitment to working toward a drug-free workplace. In order to curb the use of illegal drugs by employees of the state of Louisiana, the Louisiana Legislature enacted laws, which provide for the creation and implementation of drug testing programs for state employees. Further, the Governor of the state of Louisiana issued Executive Order 98-38 providing for the promulgation by executive agencies of written policies mandating drug testing of employees, appointees, prospective employees and prospective appointees, pursuant to R.S. 49:1001, et seq.

3. The Department of Labor fully supports these efforts and is committed to maintaining a drug-free workplace, and a workforce free of substance abuse.

4. Employees are prohibited from reporting for work or performing work for the department with the presence in their bodies of illegal drugs, controlled substances, or designer (synthetic) drugs at or above the initial testing levels and confirmatory testing levels as established in the contract between the state of Louisiana and the official provider of drug testing services. Employees are further prohibited from the illegal use, possession, dispensation, distribution, manufacture, or sale of controlled substances, designer (synthetic) drugs, and illegal drugs at the work site and while on official state business, on duty or on call for duty.

5. To assure maintenance of a drug-free workforce, the Department of Labor shall implement a program of drug testing, in accordance with Executive Order No. MJF 98-38. R.S. 49:1001, et seq., and all other applicable federal and state laws, as set forth below.

B. Applicability

1. This policy shall serve as notice and shall apply to all employees and appointees of this department as well as potential employees and potential appointees. All persons having an employment relationship, whether classified, unclassified, student employees, student interns, full-time, part-time or temporary, such as restricted and job appointments are subject to this policy.

C. Responsibility

1. All employees are responsible for reporting for duty in the physical and emotional condition that maximizes his/her ability to perform assigned tasks in a competent and safe manner.

2. All employees are responsible for promptly and cooperatively submitting to drug testing when required to do so.

3. The human resources director, after approval by the appointing authority, is responsible for:

- a. administering the drug testing program;
- b. determining when drug testing is appropriate;
- c. receiving, acting on, and holding confidential all information received from the testing service provider and from the medical review officer; and
- d. collecting all appropriate documents necessary for the department's defense in the event of legal challenge.

This will be done in consultation with the applicable appointing authority.

4. All supervisory personnel are responsible for:

- a. assuring that each employee under their supervision receives a copy of this policy,
- b. signs a receipt form, and understands or is given the opportunity to understand and
- c. have questions answered about its content.

5. The secretary of labor is responsible for the overall compliance with this policy and shall submit to the Office of the Governor, through the commissioner of administration, a report on this policy and drug testing program, describing progress, the number of employees affected, the categories of testing being conducted, the associated costs of testing, and the effectiveness of the program by November 1 of each year.

D. Definitions

Controlled Substance a drug, chemical substance or immediate precursor in Schedules I through V of R.S. 40:964 or Section 202 of the Controlled Substances Act (21 U.S.C. 812).

Designer (Synthetic) Drugs Those chemical substances that are made in clandestine laboratories where the molecular structure of both legal and illegal drugs is altered to create a drug that is not explicitly banned by federal law.

Employee unclassified, classified, and student employees, student interns, and any other person having an employment relationship with the agency, regardless of the appointment type (e.g. full time, part time, temporary, etc.).

Illegal Drug any drug which is not legally obtainable or which has not been legally obtained to include prescribed drugs not legally obtained and prescribed drugs not being used for prescribed purposes or being used by one other than the person for whom prescribed.

E. Violation of the Policy

1. Violation of this policy, including refusal to submit to drug testing, will result in adverse actions, including termination of employment. Each violation and alleged violation of this policy will be handled on an individual basis, taking into account all data, including the risk to self, fellow employees, and the general public. Disciplinary action will be taken after a complete and thorough review of the applicable data in accordance with Chapter 12 of the Civil Service Rules. Employees will be provided predeprivation notice and an opportunity to respond prior to any recommended disciplinary action.

2. Illustrative examples of violations of such drug-testing policy which shall cause recommendation for disciplinary action include but are not limited to:

- a. refusal to submit to a drug test;
- b. failure to cooperate in any way which prevents the timely completion of a drug test;
- c. submission of an adulterated or substitute sample for drug testing;
- d. buying, selling, dispensing, distributing, possessing, using, any illegal or unauthorized substance;
- e. operating any vehicle while on duty under the influence of drugs;
- f. positive drug test result.

F. Policy Acknowledgment

1. Each employee, as defined herein, present and future, shall acknowledge his receipt of a copy of this drug-

testing policy and his understanding of responsibility under its provisions by completing the below form, made a part therein. This policy may require revisions and the department reserves the right to revise and amend this rule as needed. All revisions shall be submitted to all employees to ensure that every individual remains aware of their rights and responsibilities accordingly. Questions concerning this policy may be addressed to the Human Resources Division of this department.

2. The following Policy Receipt Acknowledgment form shall be signed by all employees as defined herein, as formal acknowledgment of receipt of the drug testing policy of the department:

Policy Receipt Acknowledgment

I have received a copy of the Louisiana Department of Labor Drug Testing Policy. I agree to comply with the policy, procedures and guidelines and fully cooperate with and submit to the drug testing procedures as outlined in this policy. I understand that it is my responsibility to read and familiarize myself with the policy, procedures and guidelines, and that if I have any questions I may contact the Human Resources Division at (225) 342-3055.

I further understand that compliance with this policy is a condition of my employment and continued employment.

Name (Print)

Name (Signature)

Date

Louisiana Law mandates that this drug policy apply to all state employees. Failure to sign this receipt does not exempt you from this policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:304(3).

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of the Secretary, LR 26:

Dawn Watson
Deputy Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Drug-Free Workplace and Drug Testing

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

In order to conduct drug testing for all new hires and to implement random employee testing, including any promotions to safety-sensitive positions and any suspicious accidents which may occur within the fiscal year of 2000-01, the estimated statewide costs are \$9,024 at \$23.50 per test, for all agency offices under the state contract with Secon Drug Screening Company, as follows:

Projected New Hires of 264 (based upon the average of the fourth quarter, 1999)	\$6,204.00
Projected Random Employee Testing of 120, including safety-sensitive promotions (based on 10 employees per month)	\$2,820.00
Total Estimated Implementation Costs	\$9,024.00

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

There shall be no effect on revenue collections of state or local government units as the result if implementation of a rule for a drug-free workplace and drug testing.

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

The implementation of a drug testing policy shall not cause agency employees to incur any costs, other than to be subject to disciplinary or corrective action for positive test results.

There shall neither be any economic benefits gained by agency employees under such policy, other than the degree of chance of hire or promotion in comparison to other competing individuals who test positive to drug testing.

No other known persons or nongovernmental groups are anticipated to economically gain from the implementation of such drug testing policy, other than the general public of the state of Louisiana shall be better assured of the safety and productivity of state government.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the aforementioned degree of chance of hire or promotion shall be significant.

Dawn R. Watson
Deputy Secretary
0002#091

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation**

Statewide Order No. 29-B~~C~~ Financial Security
(LAC 43:XIX.104)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Natural Resources, Office of Conservation hereby amends Statewide Order No. 29-B.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation

Subpart 1. Statewide Order No. 29-B

Chapter 1. General Provisions

§104. Financial Security

A. Financial security must be provided for each well permitted for exploration and/or production of minerals or non-commercial Class II injection after the effective date of this rule in order to ensure that such well is plugged and abandoned and associated site restoration is accomplished in accordance with the following.

1. An operator of record who has exhibited a record of compliance with Office of Conservation rules and regulations as set forth in Statewide Order No. 29-B for a period of 48 months preceding the permit date of the well in question shall provide a certificate of deposit, appropriate bond or letter of credit in a form acceptable to the commissioner of conservation within 30 days of completion date or date said well is retained for future utility as reported on Form Comp or Form WH-1 as appropriate.

2. An operator of record who has not been a registered operator of record for a period of 48 months preceding the permit date of the well in question or an operator of record

who has not exhibited a record of compliance for a period of 48 months preceding the permit date of the well in question shall provide a certificate of deposit, appropriate bond or letter of credit in a form acceptable to the commissioner of conservation prior to issuance of permit to drill.

3. No Application to Amend Permit to Drill for Minerals for change of operator on any well subject to this Rule will be approved by the Office of Conservation until such time as financial security is in effect.

4. Plugging and abandonment of a well, associated site restoration, and release of financial security constitutes a presumption of proper closure but does not relieve the operator of record from further claim by the commissioner of conservation should it be determined that further remedial action is required.

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 from a financial institution authorized to do business in the state of Louisiana. A certificate of deposit may not be withdrawn, canceled, rolled over or amended in any manner without the approval of the Office of Conservation; or

2. an individual well bond or a blanket well bond (multiple wells) in a form prescribed by the commissioner of conservation and issued by an appropriate institution authorized to do business in the state of Louisiana in sole favor of the Office of Conservation; or

3. letter of credit issued by a financial institution authorized to do business in the state of Louisiana in a form prescribed by the commissioner of conservation.

Financial security shall remain in effect until release thereof is granted by the commissioner of conservation pursuant to written request by the operator of record. Such release shall only be granted after plugging and abandonment and associated site restoration is completed and inspection thereof indicates compliance with applicable regulations. In the event provider of financial security becomes insolvent, operator of record shall provide substitute form of financial security within 30 days of notification thereof.

C. Financial Security Amount

1. Individual well financial security shall be provided in accordance with the following:

a. land location (any location not requiring a drill barge, drill ship, jack-up rig, etc.)-\$2.00 for each foot of well depth for wells less than or equal to 5,000 feet.

b. land location (any location not requiring a drill barge, drill ship, jack-up rig, etc.)-\$3.00 for each foot of well depth for wells greater than 5,000 feet.

c. water location (any location requiring a drill barge, drill ship, jack-up rig, etc.)-\$8.00 for each foot of well depth.

2. Blanket financial security shall be provided in accordance with the following:

Total Number of Wells	Amount
#10	\$ 50,000.00
11-99	\$250,000.00
>100	\$500,000.00

3. The amount of the financial security as specified above may be increased at the discretion of the commissioner of conservation based on the compliance history of the operator of record and/or the determination by the commissioner of conservation that the location of the drill site is in an environmentally sensitive area.

4. In addition to the foregoing, the commissioner of conservation retains the right to utilize such bond in responding to an emergency which is of such magnitude as to require immediate action to prevent substantial or irreparable damage to the environment or a serious threat to life or safety based on recognized criteria, standards, or industry practices upon failure of the operator of record to begin abatement procedures within twenty-four hours of the commissioner of conservation declaring in writing that an emergency exists.

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 LR26:

In accordance with the provisions of LSA-R.S. 49:951 et seq. and LSA-R.S. 30:4, notice is hereby given that the Commissioner of Conservation will conduct a public hearing at 9:00 a.m. on Wednesday, March 29, 2000, in the Conservation Auditorium, located on the First Floor of the State Land & Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana.

At such hearing the Commissioner of Conservation shall consider an amendment of LAC 43:XIX.101 et seq. (Statewide Order No. 29-B) that will promulgate regulations regarding financial security requirements for all new well permitted for minerals/class II injection on and after the effective date of this amendment.

A copy of proposed amendment to LAC 43:XIX.101 et seq. (Statewide Order No. 29-B) can be obtained in person at the following address: Office of Conservation, Engineering Division-Room 102, 625 North 4th Street, Baton Rouge, LA.

Written request for proposed amendment to LAC 43:XIX.101 et seq. (Statewide Order No. 29-B) should be addressed to: Office of Conservation, Engineering Division-Room 102, P. O. Box 94275-Capitol Station, Baton Rouge, Louisiana 70804-9275.

All interested parties will be afforded the opportunity to submit data, views, or arguments, orally or in writing at said public hearing in accordance with LSA-R.S. 49:953. Written comments will be accepted until 4:30 p.m., Wednesday, April 5, 2000 at the following address: Office of Conservation, Engineering Division-Room 102, P.O. Box 94275, Baton Rouge, LA 70804-9275.

Total Number of Wells <5000'	Amount
#10	\$ 25,000.00
11-99	\$125,000.00
>100	\$250,000.00

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

**RULE TITLE: Statewide Order
No. 29-B Financial Security**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs (savings) to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections to state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The oil and gas industry will be directly affected by this proposed rule. FY 99-00=\$31,977 FY 00-01=\$320,495 FY 01-02=\$456,759 FY 98/99 drilling activity projected through FY 01-02. Total footage adjusted for operator of record history, completed/future utility wells, and blanket/individual well bond considerations. Cost figure of three percent of bond value utilized in calculations.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Philip N. Asproditis Robert E. Hosse
Commissioner General Government Section Director
0002#112 Legislative Fiscal Office

NOTICE OF INTENT

**Board of New Orleans and Baton Rouge
Steamship Pilot Commission**

Steamship Pilots(LAC 46:LXXVI.Chapter1)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners for the Mississippi River hereby gives notice of intent to repeal the prior rules enacted in Louisiana Register, Vol. 14, number 5, May 20, 1988 and hereinafter promulgate re-enactment of those previous rules and/or promulgate rules as to definitions, appointments of commissioners, rules and records of meetings, examination of pilots, ability to form an association, report of incompetency and removal of pilots, together with rules of minimum requirements, applicants, examination, and appointments relative to the commission of steamship pilots.

As per state law, in order to further enhance the safety and well being of the citizens of Louisiana, as well as prevent any possible imminent peril to public health, safety, and welfare, the Board of New Orleans-Baton Rouge Steamship Pilot Commissioners for the Mississippi River from the Port of New Orleans to and including the Port of Baton Rouge and intermediate ports adopts the following actions pertaining to the rules and regulations:

1. Abolish the existing rules in order to clarify the purpose, authority and procedures of the Commission. This

is accomplished via constructing new rules in lieu of the amendment process.

2. The new rules are formulated using existing Louisiana Statutes, the intent and procedural precedents of the prior rules as a foundation for effecting a cleaner and more efficient system for oversight of the pilotage under the commission's jurisdiction.

In substance, the new rules differ from the old in that they clarify the method and guidelines for making recommendations to the governor, selecting new commissioners, as well as defining the commission's authority and funding. The new document updates the criteria for rulemaking and application, record keeping, notices and meetings. Further, the new regulations provide for higher standards and qualifications for applicants and associations, and clearly defines the commission's legal authority and duty in the investigative and disciplinary process.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXXVI. Steamship Pilots

Chapter 1. New Orleans and Baton Rouge Port Pilots

§101. Definitions

Association shall mean pilot members of the New Orleans-Baton Rouge Steamship Pilot Association.

Board of Commissioners (hereinafter used interchangeably as Board, Commission, or Examiners) shall mean the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners for the Mississippi River, as designated in R.S. 34:1042.

Examiner shall mean those individuals appointed as per law.

Master License shall mean the license issued by the United States Coast Guard.

Pilot shall mean a New Orleans and Baton Rouge Steamship Pilot, as designated in R.S. 34: 1043.

Service Time shall mean the applicant's service time on the Mississippi River.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:000 (February 2000).

§103. Board of Steamship Pilot Commissioner

A. When there is a need for new commissioners, the Board of Commissioners shall make the recommendations to the governor in accordance with the law and in compliance with the commission rules.

B. When this need arises, the commissioners shall take into consideration the following in making their recommendations:

- 1. ability to serve;
- 2. qualifications;
- 3. length of service as a commissioned pilot.

C. Commissioners in the performance of their statutory duties have the exclusive and complete authority to determine their work schedule. Further, commissioners shall not suffer any loss of benefits or compensation while they are performing their duties.

D. All ordinary and necessary operating and administrative costs and expenses, including, but not limited

to, the cost of administrative offices, furniture and fixtures, communications, transportation, office supplies and equipment, publications, travel, pilot commissioners' compensation, attorney fees, expert fees, costs, expenses of litigation or any other expenses whatsoever incurred by the commission while performing their/ its duties shall be provided by the pilots and paid through their pilot association.

E. The Commissioners shall maintain an office and conduct business as is necessary to fulfill its legislative manda and/or as may be required by the rules herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:000 (February 2000).

§105. Rules, Records, Meetings, Application

A. All commission rules must be adopted by a majority of the commissioners, further, they must be submitted for legal approval before they are submitted for final approval and adoption. The Board of Commissioners shall maintain records in accordance with R.S. 49:950 et seq., and any other state laws. The Board of Commissioners shall file an annual report of investigations, findings, actions and accident data in accordance with state laws. The Board of Commissioner shall conduct its meeting in accordance with R.S. 49:950 et seq., and any other state laws.

B. The commissioners shall hold quarterly meetings on the call of the president. The president has the prerogative of calling additional meetings as needed to conduct business on giving said notice as per law.

C. These rules shall apply to all New Orleans and Baton Rouge Steamship Pilots engaged in his/her calling within the operation territory defined in R.S. 34:1043.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:000 (February 2000).

§107. Minimum Requirements, Applicants, Examination, Appointments

A. All applications for commissions to serve as a New Orleans and Baton Rouge Steamship Pilot must be in writing, must be signed by the applicant, and presented to the President of the Board for commissioner. All applications must be accompanied by satisfactory evidence of compliance with the following prerequisites:

1. applicant must hold a First Class Pilot's License of "any" gross tons, (the word "any" as interpreted by the United States Coast Guard) for the Mississippi River from Chalmette, Louisiana, to Baton Rouge Railroad and Highway Bridge at Baton Rouge, Louisiana issued to him or her by the United States Coast Guard, and

2. also be licensed as:

a. Master of Rivers or Inland Steam or Motor vessels; or

b. licensed as Master or Mate of Ocean Steam or Motor vessels; or

c. have acquired a college degree or an associates degree granted by a college or university accredited by the American Association of Colleges and Secondary Schools and

3. must have completed a Ship Handling Simulator course and a Bridge Resource Management course or any other industry related course that the Board of Examiners may deem as relevant and necessary.

B. As of January 1, 2005, all applicants for commission to serve as New Orleans and Baton Rouge Steamship Pilots, in addition to Section A (1)(2) and (3) hereinabove:

1. must be licensed as Master of Rivers or Inland Steam or Motor vessels; or

2. must be licensed as Master or Mate of Ocean Steam or Motor vessels, and must have one year service on his or her license; or

3. must have successfully acquired an associates degree or have achieved an equivalent of sixty hours of credit from an accredited college or university, and must have six month service on his or her license; or

4. must have achieved a college degree from an accredited college or university and must have one year service on his or her license.

C. As of January 1, 2010, all applicants for commission to serve as New Orleans and Baton Rouge Steamship Pilots must, in addition to Section A(1)(2) and (3) hereinabove:

1. must be licensed as Master of Rivers or Inland Steam or Motor vessels of 1600 gross tons; or

2. must be licensed as Master or Mate of Ocean Steam or Motor vessels of 1600 gross tons and have two years service on his or her license; or

3. must have successfully acquired an associates degree, or have achieved an equivalent sixty hours of credit from an accredited college or university, and have one year service on his or her license; or

4. must have successfully acquired a college degree from an accredited college or university.

5. applicant shall not have reached his or her forty-fifth birthday before being commissioned;

6. applicant must submit evidence of possessing a high school diploma or G.E.D.;

7. applicant must be a registered voter of the State of Louisiana for a minimum of one year;

8. applicant must submit evidence of good moral character;

9. applicant must submit to the Board of Examiners, a certificate that applicant is in good health and physical condition and such examination shall meet approved maritime standards;

10. applicant must submit to and pass a drug screen test that is dated within thirty days of the application submission;

11. applicant must sign an obligation to abide by the Charter, By-Laws, Rules and Regulations of the New Orleans and Baton Rouge Steamship Pilots Association and the Board of Commissioners;

12. applicant must have been duly elected an apprentice in the New Orleans Baton Rouge Steamship Pilots Association as per such Association Rules in effect as of such application;

13. applicant must serve an orientation period over the route, as an apprentice ship pilot, for not less than twelve months, which may be extended up to (1) one additional year as may be determined by the Board of Pilot Commissioners. If after the (1) one year extension apprenticeship period the applicant fails to meet the criteria

and standards of the Board, then said applicant shall be released from the apprenticeship program. The criteria and standards of the Board include but are not limited to:

- a. an applicant's recklessness and display of lack of judgment;
- b. disregard of state rules, laws, and regulations;
- c. disregard of Coast Guard rules and regulations;
- d. unfit for the position and job of a river pilot;
- e. lack of moral integrity, veracity, ability, capability, and any other such issues, complaints, or questions brought by any responsible party to the attention of the Board.

D. Examination by the Board of Commissioners

1. All applicants must successfully complete an oral and/or written examination to be conducted by the Board of Commissioners.

2. Those applicants who have complied with all of the provisions herein shall be examined by the Examiners as to the applicant's knowledge of pilotage and demonstrate the applicant's proficiency and capability to serve as commissioned pilot. This examination shall be given in such a manner and shall take such form as the Board, in its sole discretion, from time to time as the Board shall determine.

E. Restrictive Job Assignments

1. Those applicants who satisfactorily complete the examination given by the Board shall be certified to the governor as per law. Such certifications may be restrictive in job assignments, including but not limited to, vessel size and/or draft for new appointees for a specified period of time.

2. Restrictive job assignment period shall be twenty-four months in duration; this period shall be in three periods of eight months each during which the pilot will be assigned vessels of a restricted size to be determined and set by the Commission; after each eight month period the applicant may graduate to a larger size vessel, all to be determined by the Commission; the vessel size limitation for these restricted periods shall be established exclusively by the Commission; such limitations shall be at the unilateral discretion of the Commission at all times material hereto; limitations established by the Commission shall be based, but not exclusively, on a ratio of the most recent Association determination of the average size vessel piloted on the Commission route.

F. Commissioned pilots shall comply with all requirements to maintain their state commission and such other certifications as determined by the Board of Pilot Commissioners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:000 (February 2000).

§109. Association of Pilots

A. The pilots may form themselves into an association or associations, as to they may seem fit, not in conflict with the rules and regulations of the Board of Commissioners.

B. The formation of any association incorporated or non-incorporated which is for the purpose of providing pilotage service under the law, including but not limited to R.S. 34:1047, must be submitted to the Commission for approval. Such applications must meet all legal requirements, provide for a stable pilotage system, serve the best interest of the

majority of pilots and protect the life and property of the region.

C. The Board of Commissioners hereby recognizes the fact that the New Orleans and Baton Rouge pilots have formed themselves into a legal registered corporation known as the New Orleans and Baton Rouge Steamship Pilots Association; further, let it be recognized by the Commission that the said pilot Association has operated and is now operating within all state laws and is not known to be in conflict with the rules and regulations of the Board of Commissioners.

D. No pilot association, incorporated or non-incorporated, has any authority to impose or legislate any rules, bylaws or charter provisions affecting the Commission; further, any attempt to exercise any authority over or affecting the commission is a violation of the rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:000 (February 2000).

§111. Report of Incompetency, Carelessness of Pilots, Removal, Suspension

A. In any case, where a vessel under pilotage shall go aground, or shall collide with any other object, or shall meet with any casualty, or be injured or damaged in any way, said Commission shall conduct a preliminary investigation into the casualty to determine if there are any violations of the law or commission rules.

B. When probable cause is found, said commission shall report its findings to the governor. The governor shall, thereupon, refer the case to the Board of Commissioners for formal investigation. The Board shall investigate and report its findings with recommendations to the governor, whereupon, the governor may take action in his discretion.

C. All formal investigations shall be conducted in accordance with R.S. 49:950 et seq.

D. In any case, where a vessel under pilotage shall go aground, or shall collide with any other object, or shall meet with any casualty, or be injured or damaged in any way, said pilot shall report such casualties as follows:

1. report the casualty by whatever means available to the Board of Commissioners as soon as practical.

2. be available for interview by the commission and furnish complete details of the casualty.

3. make a written report to the Board of Commissioners as soon as practical.

E. Interviews and written reports to the board, which may thereupon, with or without complaint being made against said pilot, investigate the matter reported on.

F. Any pilot who shall, neglect, or refuse to make a verbal or written report to the Board as required by these rules, shall be reported to the Governor for action pursuant to law.

G. Any pilot requested or summoned to testify before the Board shall appear in accordance with said request or summons and shall make answers under oath to any questions put to him/her related to or in any way connected with the pilot's service or the pilot's territory over which he/she is licensed to pilot.

H. In any case, where the commission finds or suspects a violation of the law, or in a violation of its rules, they may charge the pilot with misconduct and remove him from duty,

however, this rule shall not abrogate any of his/her rights pursuant to all applicable laws.

I. When an investigation uncovers dangerous and/or unsafe condition and/or conditions that may jeopardized the interests, safety, health, or welfare of the pilots, vessels, cargo, property or individuals, the Commission may make recommendations for the corrective measures.

J. A pilot shall not under any circumstances make any statement to anyone until such pilot or pilots have has legal counsel when he/she is involved in a casualty, or any other complaint.

L. Any commissioner who with probable cause and/or has reason to believe, suspect, and/or knows that a pilot is or has been or may be under the influence of drugs, alcohol, or any other stimulant or depressant that may affect the performance of that pilot, or has been charged with misconduct, while subject to commission rules and/or state pilotage laws, that Commissioner in his/her discretion may immediately relieve that pilot without the necessity of formal notice and hearing from pilotage duty, in order to protect the interest, safety, health or welfare of fellow pilots, vessels, cargo, property or individuals. Further, at the earliest practical time, the Commission must request permission from the Governor, per law, to conduct the appropriate formal hearing or hearings which satisfies and protects the due process and equal protection requirements as afforded that pilot by the state and federal constitutions.

M. No person shall engage in any activities concerning the members of the New Orleans and Baton Rouge steamship pilots unless said person has been elected or appointed to do so by one of the governing boards.

N. No member of the Board of Pilot Commissioners, in the discharge of his/her duty or responsibility of his/her office will vote on a matter in which he/she is a party to or has a conflict of interest. In such cases, he/she shall automatically be recused from participating in or voting on such matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:000 (February 2000).

§113. Severability

It is understood that any provision and/or requirement herein that is deemed invalid and unenforceable for any reason whatsoever, that it may be severed from the whole and that the remaining provisions and/or requirements shall be deemed valid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners, LR 26:000 (February 2000).

Interested parties may submit written comments to Martin W. Gould, Sr., 3900 River Road, Suite 5, Jefferson, Louisiana 70121.

Martin W. Gould, Sr.
President

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Steamship Pilots

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

The proposed rule changes will require the printing of new rule books estimated at a one time cost of \$50. The cost to the Commission of providing proposed due process protection to any pilot accused of violation of laws or Commission rules cannot be determined and would depend upon the number of such actions taken by the Commission. Pilots charged with a violation of law is handled through the Administrative Procedures Act and all expenses are paid by the association.

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

The proposed rule changes will have no effect on revenue collection of state or local government units.

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

The proposed rule changes clarify and strengthen the Commission rules regarding pilot misuse of drugs, stimulants and depressants. Accordingly, to the extent that pilots now use such substances, such use should decrease, and resultant pilot safety performance should increase. The costs or benefits to pilots and the general public of this action cannot be determined. The qualification requirements are upgraded to meet the standards of the government and the average of other pilot associations in the country.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule change will have no effect on competition and employment.

Martin W. Gould, Sr.
President
0002#110

Robert E. Hosse
General Government Section Director
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Social Services Office of Family Support

Family Independence Temporary Assistance Program
(FITAP) Application, Eligibility, and Furnishing
Assistance (LAC 67.III.1223, 1225, and 1229)

The Department of Social Services, Office of Family Support, proposes to amend the *Louisiana Administrative Code*, Title 67, Part III, Subpart 2, the Family Independence Temporary Assistance Program (FITAP).

Pursuant to the authority granted to the Department by the Louisiana Temporary Assistance to Needy Families (TANF) Block Grant, the agency proposes to amend §1223 to more accurately define citizenship, §1225 to delete the good cause provision for failure to apply for a social security number, and §1229 to amend language regarding the income and resources of alien sponsors. These changes result from an advisement of the U.S. Department of Health and Human Services, Administration for Children and Families concerning the TANF State Plan.

Title 67
SOCIAL SERVICES
Part III. Office of Family Support
Subpart 2. Family Independence Temporary Assistance
Program (FITAP)
Chapter 12. Application, Eligibility, and Furnishing
Assistance
Subchapter B. Conditions of Eligibility

§1223. Citizenship

A. 1. - 8. ...

9. an alien child of a battered parent or the alien parent of a battered child as described in 8 above.

B. Time-limited Benefits. A qualified alien who enters the United States on or after August 22, 1996 is ineligible for five years from the date of entry into the United States unless:

B. 1. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2448 (December 1999), LR 26:

§1225. Enumeration

A. Each applicant for, or recipient of, FITAP is required to furnish a Social Security number or to apply for a Social Security number if such number has not been issued or is not known.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2449 (December 1999), LR 26:

§1229. Income

A. - E. ...

F. Income and Resources of Alien Sponsors

1. In determining the eligibility and benefits of an alien with an affidavit of support executed under 213A of the INA (8 U.S.C. 1183a), the income and resources of the sponsor and the sponsor's spouse shall be considered except as follows in §1229.F.a-b. This attribution shall continue for the period prescribed in 8 U.S.C. 1631.

a. Indigence exception. If an alien has been determined indigent, as provided in 8 U.S.C. 1631(e), the amount of income and resources of the sponsor or the sponsor's spouse which shall be attributed to the alien shall not exceed the amount actually provided for a period beginning on the date of such determination and ending 12 months after such date.

b. Special rule for battered spouse and child. If an alien meets the requirements of the special rule for a battered spouse or child, as provided in 8 U.S.C. 1631(f), and subject to the limitations provided therein, the provisions of §1229.F.1. shall not apply during a twelve-month period. After a twelve-month period, the batterer's income and resources shall not be considered if the alien demonstrates that the battery and cruelty as defined in 8 U.S.C. 1631(f)(1)

has been recognized in an order of a judge or administrative law judge or a prior determination of the Immigration and Naturalization Service, and that such battery or cruelty has, in the Department's opinion, a substantial connection to the need for benefits.

2. The agency has opted not to apply the deeming rule of 42 U.S.C. 608 in determining the eligibility and benefits of non-213A aliens.

G. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B., R.S. 46:231.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2449 (December 1999), LR 26:

Interested persons may submit written comments by March 28, 2000 to the following: Vera W. Blakes, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA 70804-9065. She is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on March 28, 2000 at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, LA beginning at 9:00 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code 225-342-4120 (Voice and TDD).

Family Impact Statement

1. What effect will this rule have on the stability of the family? This rule will have no effect on the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? There will be no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? There will be no effect on the functioning of the family.

4. What effect will this have on family earnings and family budget? There will be no impact on family earnings or family budget.

5. What effect will this have on the behavior and personal responsibility of children? There will be no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed rule? Assistance is provided to families which meet the financial eligibility requirements and are, thus, unable to fully meet the financial needs of eligible children. Assistance which may be provided by local governments is considered in determining eligibility.

J. Renea Austin-Duffin
Secretary

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

**RULE TITLE: Family Independence Temporary
Assistance Program (FITAP) Application, Eligibility,
and Furnishing Assistance Program**

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

There are no costs or savings anticipated for changes made at §§1223, 1225 and 1229 except the minimum cost of publishing the rule.

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

There is no effect on revenue collection of state or local governmental units.

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

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

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

The proposed rule will have no impact on competition and employment.

Vera W. Blakes
Assistant Secretary
0002#123

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of Family Support**

Support Enforcement Services Child Support
Application Fee (LAC 67:III.2521)

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.

Due to a change in the method of reimbursement for program costs to District Attorneys' offices contracted to provide child support services, all application fees will now be retained by SES. Under previous contracts, some offices of the District Attorney retained the nonfederal share of application fees collected. Language in §2521 concerning this matter must, therefore, be deleted.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 4. Support Enforcement Services

Chapter 25. Support Enforcement

Subchapter E. Individuals Not Otherwise Eligible

§2521. Child Support Application Fee

A. SES will charge an application fee of \$25 to each individual who applies for services and does not receive FITAP, MEDICAID, or IV-E Foster Care. A fee is not required if an applicant reapplies for child support through SES within six months after a case is closed, unless the case was closed at the applicant's request or for failure to cooperate.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 302.33 and 45 CFR 302.51.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:115 (February 1986), amended by the Department of Social Services, Office of Family Support, LR 24:957 (May 1998), LR 26:

All interested persons may submit written comments through March 28, 2000, to Vera W. Blakes, Assistant Secretary, Office of Family Support, P.O. Box 94065, Baton Rouge, LA 70804-9065.

A public hearing will be held on the proposed rule on March 28, 2000, at the Department of Social Services, A.Z. Young Building, Second Floor Auditorium, 755 Third Street, Baton Rouge, LA 70802, beginning at 9:00 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call Area Code 225-342-4120 (Voice and TDD).

Family Impact Statement

1. What effect will this rule have on the stability of the family? The proposed rule will not affect the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This rule will not affect the functioning of the family.

4. What effect will this have on family earnings and family budget? This rule will not affect the family earnings or family budget. This rule redirects 100 percent of the application fee to Support Enforcement Services instead of partial amounts being retained by the District Attorney's office.

5. What effect will this have on the behavior and personal responsibility of children? This rule will not affect the behavior or personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed rule? No, the rule concerns a change in District Attorneys' contracts with state government (SES).

J. Renea Austin-Duffin
Secretary

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

**RULE TITLE: Support Enforcement Services
Child Support Application Fee**

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

The only cost of implementation is the minimal cost of printing policy revisions and publishing the rulemaking. 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 results in a slight increase in revenue to Support Enforcement Services (SES). Previously, District Attorneys retained 30 percent of application fees. With this change, SES

will not retain the 30 percent share of all application fees, estimated to be \$42,900.

Offices of the District Attorney do not lose revenue, however, since under new contracts District Attorneys are reimbursed all of their costs in SES matters.

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

There is no cost or benefit to any persons or nongovernmental groups since the application fee amount has not changed.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition and employment.

Vera W. Blakes
Assistant Secretary
0002#124

Robert E. Hosse
General Government Section Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Social Services
Office of the Secretary
Bureau of Licensing**

Class "B" Child Day Care (LAC 48:I.Chapter 53)

The Department of Social Services, Office of the Secretary, Bureau of Licensing, proposes to repeal §§5355-5733 and promulgate the following in Title 48, Part I, Subpart 3, Licensing and Certification.

This proposed rule is authorized by Revised Statute 46:1401 et seq.

These standards have been revised to supersede any previous regulations heretofore published.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 53. Day Care Centers

§5355. Purpose

A. Licensing Authority

1. The Louisiana Committee on Private Child Care shall meet to develop minimum standards for licensure of Class B facilities and consult with the Department on matters pertaining to decisions to revoke or refuse to grant Class B license. The licensing authority of this committee is established by Chapter 14 of Title 46 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 46:1401 et seq., relative to the licensing and regulation of child care facilities and child placing agencies.

2. The law provides a penalty for operating a center without a valid license (see R.S. 1421). The penalty for the operation of a center without a valid license is a fine "of not less than \$75 not more than \$250 for each day of operation without a license".

3. If any child care facility operates without a valid license issued by the Department, the Department may file suit in the district court in the parish in which the facility is located for injunctive relief. This injunctive order may include a temporary restraining order to restrain the institution, society, agency, corporation, person or persons,

or any other group operating the child care facility from continuing the violation.

4. It shall be the duty of the department, through its duly authorized agents, to inspect at regular intervals all child care facilities and child-placing agencies that are subject to the provisions of the law. These inspections are not to exceed one year, and will be made as deemed necessary by the department without previous notice.

B. Waivers

1. The Secretary of the Department of Social Services, in specific instances, may waive compliance with a minimum standard if it is determined that the economic impact is sufficiently great to make compliance impractical. These standards may be waived as long as the health and well being of the staff and/or the children are not placed in danger. If it is determined that the facility or agency is meeting or exceeding the intent of a standard or regulation, the standard or regulation may be deemed to be met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:

§5357. Definitions

The following are definitions of terms used in these minimum standards:

Bureau Bureau of Licensing of the Louisiana Department of Social Services.

Child Care Center is defined as any place or facility operated by any institution, society, agency, corporation, person or persons, or any other group for the primary purpose of providing care, supervision, and guidance of seven or more children, not including those related to the caregiver, unaccompanied by parent or guardian, on a regular basis for at least twelve and one-half hours in a continuous seven-day week. Related or relative is defined as the natural or adopted child or grandchild of the caregiver or a child in the legal custody of the caregiver. A recognized religious organization which is qualified as a tax-exempt organization under Section 501(c) of the Internal Revenue Code and does not operate more than twenty-four hours in a continuous seven-day week is not considered a day care center.

Child Care Staff an individual directly involved in the care and supervision of the children in the center.

Class A License issued to centers that meet Class A minimum standards.

Class B License issued to centers that meet Class B minimum standards.

Committee on Private Child Care writes and oversees the implementation of the Class B minimum standards.

Corporal Punishment shall be defined as and limited to a spanking.

Department the Department of Social Services.

Director an individual employed by the owner of the center or by a board of a church or other organization to be responsible for the operation of the child care center.

Discipline Policy a policy that is to be made available to each parent/guardian and outlines the discipline (corporal or

noncorporal punishment) plan to be administered by the center.

Hereditary Relationship is defined as the natural or adopted child or grandchild of the caregiver or a child in the legal custody of the caregiver.

Incident Report is a record book that staff can record injuries in that a child may have arrived at school with. Each entry should be recorded, signed by the person making the report, and signed by a witness to the injury and report.

Master Card, Child's is an information form that gives identifying and pertinent information on each child.

Medication Permission Slip is an authorization form which gives the child care center parents' permission (and dosage instructions) regarding administering medication to their child.

Montessori School is a school that has a BESE Board Certification to be a Montessori School classification.

Owner is the individual or organization that owns the center, but who may employ a person to be a full-time director responsible for the operation of the center or who may retain the responsibility as director.

Personnel Health Record gives medical information of employees indicating a current check of communicable diseases.

Shall or Must is mandatory.

Spanking is a striking by the director's open hand on the clothed buttocks of a child older than 24 months of age as punishment.

Substitute Employee is an individual hired to take the place of any staff member.

Temporary Employee is an individual who, on an occasional basis, works under the supervision of a regular staff member.

Voluntary Worker is an individual who volunteers services or supplements the regular staff, on an occasional basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:

§5359. Procedures

A. Initial Application

1. Anyone applying for a license after the effective date of these standards shall meet all of the requirements herein.

2. Before beginning operation, it is mandatory to obtain licenses from the Department of Social Services, Bureau of Licensing. To do so, the following steps should be followed:

a. Prior to purchasing, leasing, etc. carefully check all local zoning and building ordinances in the area where you are planning to locate. Standards from the Office of Public Health, Sanitation Services; Office of the State Fire Marshal, Code enforcement and Building Safety; and City Fire Department (if applicable) should be obtained.

b. After securing a building, obtain an application form issued by:

Department of Social Services
Bureau of Licensing

P. O. Box 3078

Baton Rouge, La. 70821-3078

Phone: (225) 922-0015

Fax: (225) 922-0014

c. The completed application shall indicate Class "B" license. Anyone applying for State or Federal funding shall apply for a Class "A" license. Licensure fees are required to be paid by all centers. A Class "B" may not be changed to a Class "A" license if revocation procedures are pending. (However, child care facilities or agencies licensed as a Class "B" facility and owned or operated by a church or religious organization are exempt from annual license fees.)

d. After the center's location has been established, complete and return the application form. It is necessary to contact the following offices prior to building or renovating a center:

- i. Office of Public Health, Sanitation Services;
- ii. Office of the State Fire Marshal, Code Enforcement and Building Safety;
- iii. Office of City Fire Department (if applicable);
- iv. Zoning Department (if applicable);
- v. City or Parish Building Permit Office.

e. After the application has been received by the Bureau of Licensing, the Bureau will request the Office of State Marshal, Office of City Fire Department (if applicable), Office of Public Health and any known required local agencies to make an inspection of the location, as per their standards. However, it is the applicant's responsibility to obtain these inspections and approvals. A Licensing Specialist will visit the center to conduct a licensing survey.

f. A license will be issued on an initial application when the following items have been met and written verification is received by the Bureau of Licensing:

- i. fire approval (state and city, if applicable);
- ii. health approval;
- iii. zoning (if applicable);
- iv. full licensure fee paid (if applicable);
- v. three positive references on the Director;
- vi. licensure survey verifying substantial compliance.

3. When a center changes location, it is considered a new operation and a new application and fee for licensure shall be submitted. All items listed above shall be resubmitted, except references if the Director remains the same.

4. When a center changes ownership, a new application and fee shall be submitted. All approvals listed above shall be current. Documentation is required from the previous owner assuring change of ownership, i.e., letter from previous owner, copy of Bill of Sale or a lease agreement.

5. All new construction or renovation of a center requires approval from agencies listed above and the Bureau of Licensing.

6. The Bureau is authorized to determine the period during which the license shall be effective. A license is valid for the period for which it is issued unless it is revoked due to center's failure to maintain compliance with minimum standards.

7. A license is not transferable to another person or location.

8. If a Director or member of his immediate family has had a previous license revoked, refused, or denied, upon re-application, the applicant shall provide written evidence that the reason for such revocation, refusal or denial no longer exists. A licensing survey will then be conducted to verify that the reasons for revocation, refusal, or denial have been corrected and the Director and/or center is in substantial compliance with all minimum standards.

9. A license shall apply only to the location stated on the application and such license, once issued, shall not be transferable from one person to another or from one location to another. If the location or ownership of the facility is changed, the license shall be automatically revoked. A new application form shall be completed prior to all changes of ownership or location.

B. Fees

1. An initial application fee of \$25 shall be submitted with all initial applications, including all church owned and operated centers. This fee will be applied toward the total licensure fee, which is due prior to licensure of center. This fee is to be paid by all initial and change of location providers. The full licensure fee shall be paid on all Changes of Ownership. All fees shall be paid by certified check or money order only and are nonrefundable.

2. Annual licensure fees are required prior to issuance or renewal of the license. (However, child care facilities or agencies licensed as a Class "B" facility and owned or operated by a church or religious organization are exempt from license fees.) License fee schedules (based on capacity) are listed below:

License Fee Schedules	
Capacity	Fee
15 or fewer	\$25
16-50	\$100
51-100	\$175
101 or more	\$250

3. Other Licensure Fees:

a. Twenty-five dollar replacement fee for any center replacing a license when changes to the license are requested by the Director, i.e., changes in capacity, name change, age range change. (There is no processing charge when the request coincides with regular renewal of license.)

b. Five dollar processing fee for issuing a duplicate license with no changes.

C. Exemptions

1. The only exemption to licensure is private or public day schools serving children in grades one and above or pre-kindergartens and kindergartens. Also exempt are state certified Montessori schools and camps, as well as all care given without charge.

D. Licensing Changes

1. Bureau of Licensing shall be notified before changes are made which might have an effect upon the license (for example, a change in age range of children to be served or a change in space of facility).

E. Relicensing. The relicensing survey is similar to the original licensing survey.

1. Renewal applications will be mailed to centers approximately 60 days prior to the expiration for execution. The application shall indicate any changes the center needs to make (example: hours of operation, ages of children, etc.).

2. Relicensing surveys will be made by the Department of Social Services, Bureau of Licensing, Office of the State Fire Marshal, the Office of Public Health and others as the City Fire Marshal, Zoning (if applicable). Approvals of each must be received by the Department of Social Services, Bureau of Licensing before a new license will be issued. The director will review with the licensing specialist the findings and will be furnished a copy for any necessary action. It is the responsibility of the center owner/director to obtain the approvals before the current license's expiration date.

3. The Department of Social Services and the Office of the State Fire Marshal must approve any proposed structural changes, ratio adjustments, and variance of space used before changes are made which may affect the center's license.

F. Denial, Revocation or Nonrenewal of License

1. An application for a license may be denied, or a license may be revoked, or renewal thereof denied, for any of the following reasons:

a. violation of any provision of R.S. 46:1401 et seq. or failure to meet any of the minimum standards, rules, regulations or orders of the Department of Social Services promulgated thereunder;

b. cruelty or indifference to the welfare of the children;

c. conviction of a felony or any offense of a violent or sexual nature or an offense involving a juvenile victim, as shown by a certified copy of the record of the Court of conviction, of the applicant;

i. or, if the applicant is a firm or corporation, any of its board members or officers;

ii. or of the person designated to manage or supervise the center;

b. history of noncompliance;

c. disapproval from any agency whose approval is required for licensure;

d. nonpayment of licensure fee and/or failure to submit application for renewal prior to the expiration of the current license;

e. any validated instance of cruel, severe, or unusual punishment, physical or sexual abuse and/or neglect if the owner is responsible or if the employee who is responsible remains in the employment of the center;

f. the center is closed with no plans for reopening and no means of verifying compliance with minimum standards for licensure;

g. any proven act of fraud such as falsifying or altering document(s) required for licensure;

h. center refuses to allow the Bureau to perform mandated duties, i.e., denying entrance to the center, lack of cooperation for completion of duties, etc.

G. Appeal Procedure

1. If the license is denied, refused or revoked, the Bureau shall notify the day care center of the reasons for denial, refusal or revocation.

a. The day care operator may appeal this decision by submitting a written request including reasons to the Appeals Bureau, P.O. Box 2944, Baton Rouge, LA 70821-9118. This written request must be postmarked within 30 days of the operator's receipt of the above notification.

b. The Appeal's Bureau shall hold a hearing after receipt of such a request.

c. Within 90 days after the date the appeal is filed, the Appeal's Bureau shall advise the appellant by registered letter of the decision, either affirming or reversing the original decision. If the license is refused or revoked, the center shall immediately terminate operation.

H. Advertising

1. Any Class "B" facility which advertises the fact that it is licensed under Louisiana law shall clearly indicate in its advertising that it holds a Class "B" license. In printed materials, Class "B" shall be printed in the same size type as the words "licensed" or "license". In broadcast advertising, a facility shall not advertise the fact that it is licensed without indicating in the same advertisement that the kind of license held is a Class "B" license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:

§5361. General Requirements

A. The Director shall be responsible for ensuring that the minimum licensing requirements are met.

B. A current child day care license shall be on display, except for church affiliated centers (R.S. 46:1412.C) that choose to keep the license on file and available upon request.

C. A center shall maintain in force at all times current commercial liability insurance for the operation of a center and vehicle (if transportation is provided) to insure medical coverage for children in the event of accident or injury. Documentation shall consist of the insurance policy or current binder that includes the name of the insurance company, policy number, period of coverage and explanation of the coverage.

D. Current written report from the Office of State Fire Marshal.

E. Current written report from the Office of Public Health.

F. Current written report from City Fire (if applicable).

G. Certificate of Occupancy (zoning) (if applicable).

H. Incident log for staff to record any injuries that a child may have upon arrival to the child care center.

I. Each person living in a private residence, part of which is used as a child care facility, shall meet the same medical requirements as employed personnel.

J. Each child living in a private residence, part of which is a child care facility shall meet the same medical requirements as the children enrolled in the center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:

§5363. Transportation

A. A center that provides transportation of children assumes additional responsibility and liability for the safety of the children.

B. Transportation Plan

1. If transportation is provided, even on an irregular basis, the center shall have a written statement identifying the type of transportation provided, i.e., to and from home, to and from school, to and from swimming or dancing lessons, field trips, etc.

2. If transportation to/from home and/or school is provided the center shall have a written plan that states the following:

- a. geographical areas served;
- b. time schedule of the services; and
- c. fee, if any, for transportation services.

C. Transportation Furnished by the Center

1. When transportation is provided, the director shall insure that:

a. transportation arrangements conform to state laws;

NOTE: For additional information regarding state laws, contact the Office of Public Safety.

b. at least two staff, one of whom may be the driver, shall be in each vehicle unless the vehicle has a communication device and child/staff ratio is met in the vehicle;

c. at least one staff in each vehicle shall be currently certified in CPR;

d. children are under the direct supervision of staff at all times. The driver or attendant shall not leave the children unattended in the vehicle at any time while transporting children;

e. each child shall board the vehicle from the curbside of the street and/or shall be safely escorted across the street;

f. each child is delivered to a responsible person authorized in writing by the parent;

g. a designated staff person shall be present when the child is delivered to the center;

h. good order shall be maintained on the vehicle;

i. the driver shall check the vehicle at the completion of each trip to ensure that no child is left on the vehicle and all children were picked up and dropped off at the correct locations;

j. the vehicle shall be maintained in good repair; and

k. the use of tobacco in any form, use of alcohol and possession of illegal substances or unauthorized potentially toxic substances, firearms, pellet or BB guns (loaded or unloaded) in any vehicle while transporting children is prohibited.

2. Children shall not be transported in the back of a pickup truck.

3. All drivers and vehicles shall be covered by liability insurance as required by law.

4. The driver shall hold a valid appropriate Louisiana driver's license.

5. Each driver or attendant shall be provided with a current master transportation list including each child's name, pick up and drop off locations and authorized persons to whom child may be released.

6. The center shall maintain a daily transportation attendance record.

7. The vehicle shall have evidence of a current safety inspection.

8. There shall be first aid supplies in the vehicle, i.e. Band-Aids, peroxide, etc.

9. There shall be information in each vehicle identifying the center's name, telephone number and address for emergency situations.

10. A fire extinguisher shall be stored in the vehicle.

D. Field Trips

1. Whether transportation for field trips is provided by the center, parents, or an outside source, there shall be signed parental authorization for each child to leave the center and to be transported in the vehicle.

E. Transportation by Contract

1. When the center contracts with an outside source for transportation, there shall be an agreement on file signed and dated by the Director and a representative of the transportation agency stating that all rules for transportation shall be followed as stated in the law and the regulations. The center shall select a transportation agency with a good reputation and reliable drivers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 26:

§5365. Center Staff

A. All center staff includes the director, teachers, child care staff, and any other employees of the center such as the cook, housekeeper, and chauffeur.

B. All center staff must be at least 18 years of age or older. However, the center may employ a person 16 or 17 years old that works under the direct supervision of a qualified adult staff person.

C. Personnel Records

1. Employment Application. There shall be an employment application for each regularly employed and substitute member of the staff. This application shall include the actual date of hire, all pertinent personal information, past work experience, educational background.

2. References. Center staff shall be known in the community to be of good reputation as verified by at least three non-related reference checks. There shall be on file in the center three letters of reference or documentation that at least three reference were contacted by the director/provider prior to employment.

3. I-9 Form. A completed I-9 form (U.S. Immigration and Naturalization Service Employment Eligibility Form) required after November 1986.

4. Criminal Records Check. A criminal records check shall be requested by the director/provider prior to the employment of any staff person. Documentation of a criminal records check and fingerprinting application as required by R.S.15: 587.1 after September 1, 1987.

a. Criminal Record clearance is not transferable from one employer to another.

b. No felon shall be employed in a Class "B" facility, unless approved in writing by a district judge of the parish and the local district attorney. This statement shall be kept on file at all times by the child care facility and shall be produced upon request to any law enforcement officer.

5. Health Requirements

a. All center staff shall be required to obtain three months before or within 30 days after beginning work and at least every three years thereafter a written statement from a physician certifying that the individual is in good health and is physically able to care for the children, and is free from infectious and contagious diseases.

b. At the time of employment, the individual shall have no evidence of active tuberculosis. Tuberculin test result dated within one year prior to offer of employment is acceptable. Staff shall be retested on time schedule as mandated by the Office of Public Health. For additional requirements, refer to Chapter II of State Sanitary Code.

c. The director or any center staff shall not remain at work if he/she has any sign of a contagious disease.

d. Substitute workers, temporary employees, or volunteers shall meet the same medical requirements as regularly employed personnel. Refer to substitute and temporary employees as defined.

6. Job Descriptions. A personnel job description shall be kept on file detailing employee's responsibilities.

7. Personnel Records. Personnel records shall be kept on file for a minimum of one year after the employee leaves. Health records may be returned to the staff member upon request.

D. Personnel Training

1. The provider/director shall plan and implement procedures relating to new staff development. This shall include the following:

a. provisions for a one-day orientation to center policies and practices;

b. health and safety procedures; and

c. four days of supervised working with children;

d. documentation of orientation shall consist of a statement in the employee's record signed by the employee and director attesting to having received such orientation.

2. Providers/Directors shall conduct, at a minimum, one staff training session or meeting each quarter. The training session/meeting should include such matters as program planning, sharing new materials, and discussing center policy. Documentation of the training sessions/meetings including date and staff signatures shall be kept on file in the center.

3. Books, magazines, periodicals, pamphlets and journals relating to child care shall be available to staff. Documentation shall consist of observing that these materials are accessible in the facility to the staff.

4. CPR training for infant and child is required of one-half of the current staff on the premises. Documentation will be a copy of the certification card on file at the center.

a. This training may satisfy the requirement for a staff quarterly training session (§5365.D.2).

b. Certification will qualify for four "clock hour" training credit toward a new Director's requirements. (§5369.A.2.a-h)

5. If a center cares for children eight years and up, at least one staff shall be required to have Adult CPR when those children are present. Documentation will be a copy of the certification card on file at the center.

6. All staff shall have three continuing education hours annually through attendance at child care workshops or conferences i.e. LECA, LAPACC, NAEYC, etc., or local physician, dentist, public library, PBS, universities and extension services, etc. This is in addition to the three hours required for Health and Safety. These hours will be recognized by the Bureau without prior approval. The hours shall be documented and kept on file. This documentation shall include number of hours, topic, trainer, staff name, date and signature of the Director and/or the trainer.

7. All personnel are to be trained in emergency and evacuation procedures appropriate for the area in which the center is located. Documentation of training shall be kept on file at the child care center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:

§5367. Childrens' Records

A. The center shall have on file and available at all times the following records for each child in care:

1. master card. General information regarding child to include medical history;
2. immunization record;
3. written parental/guardian authorization for release of child to a third party; and
4. written parental/guardian authorization for the center to administer and/or secure emergency medical treatment.

B. For licensing purposes, children's records shall be kept on file a minimum of one year from the date of discharge from the center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:

§5369. Personnel

A. Director Qualifications

1. must be at least twenty-one (21) years of age;
2. must have documentation of at least one of the following:
 - a. bachelor's degree from a regionally accredited college or university with at least six credit hours of child development or early childhood education and one year of supervised child care experience in a licensed center or comparable setting;
 - b. a Child Development Associate Credential which includes practicum and one year experience in a licensed center;
 - c. an Associate of Arts degree in child development or a closely related area and one (1) year of supervised child care experience in a licensed center or a comparable setting;
 - d. one year of experience as a director or staff in a licensed child care center plus 12 credit hours in child care child development or early childhood education. Fifteen "clock hours" may be substituted for each three credit hours;
 - e. diploma from a vocational child care training program approved by the Board of Elementary and Secondary Education or equivalent plus one year of supervised child care experience in a licensed child care center or comparable setting;
 - f. a National Administrator Credential as awarded by the National Child Care Association, and one year experience in a licensed child care center, or comparable setting;
 - g. certificate of completion from the International Correspondence School and one year experience in a licensed child care center or comparable setting;

h. certificate of completion from the Professional Career Development Institute and one year of experience in a licensed child care center or comparable setting.

3. A comparable setting must be approved by the Bureau.

4. Licenses issued after June 20, 1990 must meet one of the requirements (5369.A.2.a-h). All directors employed prior to June 20, 1990 will be exempt from meeting director qualifications. These directors, however, are encouraged to work toward one of these requirements.

B. Required Center Staff

1. If the number of children exceeds 42 the director shall be a full-time administrator. When the director is not on the premises, there must be an individual designated as responsible for the operation of the center.

2. If the center does not exceed 42 children as their enrollment, there must be an individual designated as responsible for the operation of the center.

3. If the director is responsible for more than one center, there must be an individual designated as responsible for the operation of each center.

4. There shall be provisions for substitute help if the director or any regular employee is absent from the center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:

§5371. Required Child/Staff Ratios

A. Required Ratios for Ten or Less Children:

1. Below are the required child/staff ratios for centers serving ten or fewer children (including the operator's and/or staff's own children):

Children Staff	
10 (if no more than two children are under age two)	1
10 (if three or more children are under age two)	2

B. Required Ratios for Eleven or More Children:

Children Staff	
6 (Non-walkers and toddlers under 12 months)	1
8 (Toddlers, 12 months to 23 months)	1
12 (Two-Year-Olds, 24 months to 36 months)	1
14 (Three-Year-Olds, 36 months to 48 months)	1
16 (Four-Year-Olds, 48 months to five years old)	1
20 (five to six year olds)	1
25 School Age (six-year-olds and up)	1

1. Mixed Ages

a. When the center serves children of mixed ages, excluding children under two years, an average of the staff ratio may be applied.

2. Staff Involved in Ratio

a. Only those staff members directly involved in child care and supervision shall be considered in assessing child/staff ratio.

3. Other Required Staff

a. When the number of children in the center exceeds ten, there must be an individual immediately available in case of an emergency.

b. If day and night care is offered, there must be separate staff.

c. At naptime, appropriate staffing shall be present within the center to satisfy required child/staff ratio.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:

§5373. Physical Plant and Equipment

A. Indoor/Outdoor Space Required. The center shall be used exclusively by the children and center staff during operating hours. Area licensed for use as a child care center shall not be dually licensed.

1. Indoor Space

a. There shall be a minimum of indoor space of at least 35 square feet per child. The space shall not include toilet facilities, hallways, lofts, storage or food preparation areas, or offices. Any room counted as play space shall be available for play during play hours. If rooms are used exclusively for dining or sleeping, they cannot be included in the licensed capacity.

b. There shall be provisions for temporarily isolating a child having or suspected of having a communicable disease so he/she can be removed from the other children. Movable partitions are permissible so that the space may be used for play when not needed for isolating an ill child.

c. An area, i.e. bathroom, partitioned area, etc., shall be maintained for the purpose of providing privacy for diapering, dressing and other personal care procedures for children beyond the usual diapering age.

2. Outdoor Play Space

a. There shall be outdoor play space with direct exit from the center into the outdoor play yard.

b. The outdoor space shall provide a minimum of 75 square feet for each child in the outdoor play space at any one time. The minimum outdoor play space shall be available for at least one-half of the licensed capacity.

c. The outdoor play space shall be enclosed with a fence or other barrier in such a manner as to protect the children from traffic hazards, to prevent the children from leaving the premises without proper supervision, and to prevent contact with animals or unauthorized persons.

d. Crawlspace and mechanical, electrical, or other hazardous equipment shall be made inaccessible to children.

e. Areas where there are open cisterns, wells, ditches, fishponds and swimming pools or other bodies of water shall be made inaccessible to children by fencing.

3. A soft surface shall be provided under climbing apparatus with a potential fall of four feet or more to the ground. Soft surface examples are pea gravel, sand, wood chips, sawdust, or mats.

B. Furnishings and Equipment

1. There shall be a working telephone at the center.

2. Appropriate emergency numbers shall be posted, such as fire department, police department, and medical facility.

3. Play equipment of sufficient quantity and variety for indoor and outdoor use shall be provided which is appropriate to the needs of the children as follows:

a. equipment which encourages active physical play (for example, climbing apparatus, swings, wheel-toys); and

b. equipment which encourages quiet play or activity (for example, sand clay, crayons, paints, story and picture books, dolls, puzzles, and music).

4. The equipment shall be maintained in good repair.

5. The center shall make provisions for storage space within easy reach of the children for the storage of play materials in appropriate play areas. Toy chests with attached lids are prohibited.

6. There shall be individual spaces for each child's clothing and personal belongings.

7. Chairs of a suitable size and table space shall be available for each child two years or older.

8. Individual and appropriate sleeping arrangements must be provided for each child.

a. State and local health requirements regarding sleeping arrangements must be met.

b. Each child shall provide or be provided with a mat, cot or bed age appropriate. Playpens shall not be substituted for a baby bed/crib.

c. While in use, each mat, cot or bed shall be placed 18 inches apart and shall be arranged in a head to toe configuration. Each one shall be labeled for individual use.

9. Smoking shall not be allowed on the child care premises.

C. Fire Safety

1. Fire drills shall be conducted at least once per month. These shall be conducted at various times of the day and shall be documented as follows:

a. date and time of day;

b. number of children;

c. lapse time of drill;

d. problems and solutions if any; and

e. staff signatures.

D. Safety Regulations

1. Drugs, poisons, harmful chemicals, all products labeled "Keep out of the reach of children", equipment and tools shall be locked away from the children. Whether a cabinet or an entire room, the storage area must be locked.

2. Refrigerated medications shall be in a secure container to prevent access by children and avoid contamination of food.

3. Secure railings shall be provided for:

a. flights of more than three steps;

b. porches more than three feet from the ground.

4. Gates shall be provided at the head or foot of each flight of stairs to which children have access.

5. Accordion gates are prohibited.

6. First Aid Supplies shall be available at the day care center. (Suggestions for first aid supplies may be obtained from the Red Cross.)

7. The center and yard must be clean and free from hazards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:

§5375. Admission of Children

A. Admission of children shall include an interview with the parent or guardian to:

1. secure necessary information about the child; and
2. provide a Parents' Handbook about the center's programs, policies, fees and a basic daily center schedule.

B. Parents or guardians must be provided with a written description of the center's discipline policy.

C. Discrimination by child daycare centers on the basis of race, color, creed, sex, national origin, handicapping condition or ancestry is prohibited. A policy shall include this written statement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:

§5377. Care of Children

A. Nutrition

1. If the Center prepares any meals, well-balanced and nourishing meals shall be made available to children in care.

a. Children in care for more than four hours shall be provided meals using the four basic food groups (bread, fruits and vegetables, dairy products, protein products) that provide approximately one-third to one-half of the current Recommended Dietary Allowances of the National Research Council. (See Appendix A)

b. Additional servings of nutritious food over and above the required daily minimum shall be made available to children as needed if not contradicted by special diets.

c. To ensure well-balanced and nourishing meals, the specified patterns for meals (See Appendix A) shall be referenced.

2. Milk shall be served to the children at least once a day.

3. Children in full-time care shall have two snacks and one meal daily.

4. Weekly menus for meals and snacks shall be posted if the center prepares the food. Substitutions shall be posted on or near the menu.

5. It is permissible for children to bring their own food to the center.

6. Bottled formula for infants must be labeled.

7. If the parent provides the daily meal, parents should be encouraged to prepare meals which are well balanced and nutritious but with the understanding that what the parent provides is acceptable.

8. Infants are to be fed and supervised individually.

a. Infants shall be held while feeding.

b. A bottle shall not be propped at any time.

c. Parents shall supply the center with a schedule of feeding times for their infant.

9. Drinking water shall be readily available to the children in single service cups or cups that can be sanitized.

a. Drinking fountains are permissible.

b. Children shall be offered water at intervals at a minimum of two and one-half hours and after each outdoor activity.

10. Children's food shall be served on individual plates, napkins, paper towels or in cups as appropriate.

B. Health Service to the Child

1. No drugs of any type, including aspirin, shall be given by the center personnel unless authorized in writing by the parent. Authorization shall include the name of the child and medication, date(s) to be given, time to be given, dosage, and signature of parent.

2. Documentation shall be maintained verifying that medication was given according to parent's authorization, including the date, time and signature of the staff member who gave the medication.

3. All medication shall remain in the original container.

4. If symptoms of contagious or infectious diseases develop while the child is in care, he/she shall be in supervised isolation away from the other children until a parent or designated person has been contacted and the child has been picked up from the center.

5. Any child who has had a 100°F oral temperature or 101°F rectal temperature reading the last 12 hours is suspect.

6. Children with the following illnesses or symptoms shall be excluded from the center based on potential contiguousness (communicability) of the disease. Periods may be extended beyond this depending upon individual conditions.

Illness/Symptom	Exclude Until
Meningococcal disease (Neisseria meningitis)	Well with proof of noncarriage*.
Hib disease (hemophilus)	Well with proof of noncarriage*.
Diarrhea (two or more loose stools or over and above what is normal for that child).	Diarrhea resolved or is controlled (Contained in Diaper or toilet).
Fever of unknown origin (100°F oral or 101°F rectal or higher) some behavioral signs of illness.	Fever resolved or cleared by child's physician or Health department.
Chicken pox	Skin lesions (blisters) Scabbed over completely.
Hepatitis A	One week after illness started and fever gone.
Aids (or HIV infection)	Until child's health, neurologic development, behavior, and immune status is deemed appropriate (on a case-by-case basis) by qualified persons**, including the child's physician, chosen by the child's parent or guardian and the Director.
Undiagnosed generalized rash	Well or cleared by child's physician.
Any child with a sudden onset of vomiting, irritability, or excessive sleepiness.	Evaluated and cleared by child's physician.

* Proof of noncarriage. Either by completion of appropriate drug regimen of Rifampin or by a negative throat culture obtained after completion of treatment for meningitis.

** These persons include the child's physician and other qualified individuals such as the Director, a representative of the state's Office of Public health, and a child development specialist and should be able to evaluate whether the child will receive optimal care in the specific program being considered and whether HIV-infected child poses a potential threat to others.

7. With most other illnesses, children have either already exposed others before becoming obviously ill (i.e. colds), or are not contagious one day after beginning treatment (i.e., strep throat, conjunctivitis, impetigo, ringworm, parasites, head lice, and scabies.)

8. The parent or designated person shall be notified and incident documented if:

- a. child develops symptoms of illness; or
- b. suffers a serious accident in child care;
- c. all head injuries shall be reported to parents immediately.

9. An accident report including incidents shall be maintained detailing accident/incident of child and the action taken by the staff/director.

C. Daily Program

1. There shall be a schedule of the day's plan of activities posted in each classroom or center providing for flexibility and changes, as deemed necessary.

2. The program of activities shall be adhered to with reasonable closeness but shall accommodate and have due regard for individual differences among the children.

3. The program shall provide time and materials for both vigorous and quiet activity for the children to share or to be alone, indoor and outdoor play and rest. Regular time should be allowed for routines such as washing, lunch, rest, snack and putting away toys. Activity and quiet periods should be alternated so as to guard against over stimulation of the child.

4. Children shall have a rest period of at least one hour.

5. While awake, infants and toddlers shall not remain in a crib, a baby bed, or a playpen for more than 30 minutes continuously.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:

§5379. Care for Children During Nighttime Hours

A. The Minimum Standards for child care centers also apply to centers which provide care after 9:00 p.m. with the inclusion of the following standards as set forth in this section.

1. Any child care center caring for children at night must follow the same requirements for personnel standards as previously stated.

2. A minimum of one adult shall be present at all times during nighttime care.

3. In addition, the following standards shall apply;

a. The adult in charge must remain awake all night and directly supervise the children at all times.

b. Meals must be served to children who are in the center at the ordinary meal times;

c. Each child shall have separate sleeping accommodations. These accommodations shall include age appropriate crib, cot with a mat or mattress or bed.

d. Evening quiet time such as story time, games, and reading shall be provided to each child arriving before bedtime.

e. No physical restraints shall be used to confine children to bed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:

§5381. Discipline

A. Each center shall establish a written policy in regard to methods of discipline stating what methods of discipline will and will not occur. This statement must be made available to parents/guardians and licensing personnel.

B. If corporal punishment is used, the following guidelines are applicable and shall be included in the written discipline policy.

1. Permission for corporal punishment must be in writing from the parents. Documentation of details of the incident/infracton and punishment administered is required. A copy of the documentation must be kept on file at the child care center and a copy given to the parents.

2. Parents must be notified by phone before corporal punishment is administered. Documentation of the phone contact must be kept on file.

3. Written permission for corporal punishment of a child shall not be a preadmission requirement for children to be enrolled in a child care program.

4. Corporal punishment will not be used on children 24 months and younger.

5. Any implement other than the open hand shall not be considered as corporal punishment but mistreatment of the child.

6. Corporal punishment shall only be administered by the Director in the form of and not more than three spanks of the open hand on the clothed buttocks of a child older than 24 months of age. A second adult must be present during the administration of the spanking and the spanking must be documented and signed by both adults present.

7. Cruel, severe, unusual, or unnecessary punishment shall not be inflicted on children.

D. Derogatory remarks shall not be made in the presence of the children about family members of the children in care or about the children themselves.

E. No child or group of children shall be allowed to discipline another child.

F. When a child is removed from the group for disciplinary reasons, he shall never be out of sight of a staff member.

G. No child shall be deprived of meals or any part of meals for disciplinary reasons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:

§5383. Abuse and Neglect

A. Any suspected abuse and/or neglect of a child in a child care center must be reported in accordance with Louisiana Revised Statutes 14:403. This statement shall be visibly posted in the center with the local child protection phone number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:

§5385. Supervision

A. Children shall be supervised at all times. All children shall never be left alone in any room or outdoors at any time without a staff present.

B. While on duty with a group of children, child care staff members shall devote their entire time:

1. in supervision of the children; and
2. in participating with them in their activities.

C. Individuals who do not serve a purpose related to the care of children and/or hinder supervision of the children shall not be present in the center.

D. At naptime, children may be grouped together with one worker supervising the children sleeping while other workers rotate various duties and lunchtime. All children sleeping must be in the sight of the naptime worker. However, appropriate staffing must be present within the center to satisfy state required child/staff ratios.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:

Family Impact Statement

In accordance with Section 972 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted the family impact statement regarding the rule proposed for adoption, repeal or amendment.

1. What effect will this rule have on the stability of the family? This proposed rule to amend the minimum standards for licensure of Class "B" child day care center will have no affect on the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed rule could result in staff duties pertaining to the supervision and care of children in Class "B" day care centers becoming more clearly defined and documented.

3. What effect will this have on the functioning of the family? This rule is not anticipated to have any affect on the functioning of the family.

4. What effect will this have on family earnings and family budget? There will be no affect on family earnings and family budget.

5. What effect will this have on the behavior and personal responsibility of children? This proposed rule could potentially result in an improvement in the behavior and personal responsibility of children in care in Class "B" day care centers because of more efficient operations of those day care centers.

6. Is the family or local government able to perform the function as contained in this proposed rule? The family or

local government is not able to perform the function contained in this proposed rule.

Public hearings on the proposed rule will be held on Monday, March 27, 2000 at 10:00-11:00 a.m. at Department of Transportation and Development, 1st Floor Auditorium, 1201 Capitol Access Road, Baton Rouge, LA; Tuesday, March 28, 2000 at 10:00-11:00 a.m. at Delgado Community College, Building #7, Multimedia Room, 615 City Park Avenue, New Orleans, LA; and Thursday, March 30, 2000 at 10:00-11:00 a.m. at State Office Building, Room 453, 122 St. John Street, Monroe, LA.

Interested persons may request copies as well as submit written comments on this proposed rule to Angie Badeaux Rollins, Office of the Secretary, Bureau of Licensing, P.O. Box 3078, Baton Rouge, LA 70821-3078.

All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

J. Renea Austin-Duffin
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Class "B" Child Day Care**

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

Implementation costs of this proposed rule that will be incurred by state government will be for the printing and mailing of new licensing standards for Class "B" child day care centers. The projected cost for printing 600 copies of the standards is estimated to be \$720. Postage costs for mailing this material to Class "B" day care center operators will be approximately \$882. Total implementation costs for printing and postage will be \$1602.

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

This rule will have no effect on revenue collection of state or local governmental units.

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

There are no costs or economic benefits anticipated to any persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no impact anticipated on competition or employment.

J. Renea Austin-Duffin
Secretary
0002#117

H. Gordon Monk
Staff Director
Legislative Fiscal Office

Legislation

LEGISLATION

State Legislature 1999 Regular Session

Administrative Procedure Act (R.S. 49:950 et seq.)

(Editor's Note: The following Act is the finished version of the APA as stored in the House of Representatives' Database.)

Title 49

STATE ADMINISTRATION

Chapter 13. Administrative Procedure

§950. Title and Form of Citation

This Chapter shall be known as the Administrative Procedure Act and may be cited as the Administrative Procedure Act.

Added by Acts 1982, No. 129, '1.

§951. Definitions

As used in this Chapter:

(1) "Adjudication" means agency process for the formulation of a decision or order.

(2) "Agency" means each state board, commission, department, agency, officer, or other entity which makes rules, regulations, or policy, or formulates, or issues decisions or orders pursuant to, or as directed by, or in implementation of the constitution or laws of the United States or the constitution and statutes of Louisiana, except the legislature or any branch, committee, or officer thereof, any political subdivision, as defined in Article VI, Section 44 of the Louisiana Constitution, and any board, commission, department, agency, officer, or other entity thereof, and the courts.

(3) "Decision" or "order" means the whole or any part of the final disposition (whether affirmative, negative, injunctive, or declaratory in form) of any agency, in any matter other than rulemaking, required by constitution or statute to be determined on the record after notice and opportunity for an agency hearing, and including non-revenue licensing, when the grant, denial, or renewal of a license is required by constitution or statute to be preceded by notice and opportunity for hearing.

(4) "Party" means each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party.

(5) "Person" means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than an agency, except that an agency is a "person" for the purpose of appealing an administrative ruling in a disciplinary action brought pursuant to Title 37 of the Louisiana Revised Statutes of 1950 prior to the final adjudication of such disciplinary action.

(6) "Rule" means each agency statement, guide, or requirement for conduct or action, exclusive of those regulating only the internal management of the agency and those purporting to adopt, increase, or decrease any fees imposed on the affairs, actions, or persons regulated by the

agency, which has general applicability and the effect of implementing or interpreting substantive law or policy, or which prescribes the procedure or practice requirements of the agency. "Rule" includes, but is not limited to, any provision for fines, prices or penalties, the attainment or loss of preferential status, and the criteria or qualifications for licensure or certification by an agency. A rule may be of general applicability even though it may not apply to the entire state, provided its form is general and it is capable of being applied to every member of an identifiable class. The term includes the amendment or repeal of an existing rule but does not include declaratory rulings or orders or any fees.

(7) "Rulemaking" means the process employed by an agency for the formulation of a rule. Except where the context clearly provides otherwise, the procedures for adoption of rules and of emergency rules as provided in R.S. 49:953 shall also apply to adoption of fees. The fact that a statement of policy or an interpretation of a statute is made in the decision of a case or in an agency decision upon or disposition of a particular matter as applied to a specific set of facts involved does not render the same a rule within this definition or constitute specific adoption thereof by the agency so as to be required to be issued and filed as provided in this Subsection.

Acts 1995, No. 1057, '1, eff. June 29, 1995 and Jan. 8, 1996 (1/8/96 date applicable to Dept. of Health and Hospitals only); Acts 1997, No. 1224, '1.

§952. Public Information; Adoption of Rules; Availability of Rules and Orders

Each agency which engages in rulemaking shall:

(1) File with the Department of the State Register a description of its organization, stating the general course and method of its operations and the methods whereby the public may obtain information or make submissions or requests.

(2) Adopt rules of practice setting forth the nature and requirements of all formal and informal procedures available.

(3) Make available for public inspection all rules, preambles, responses to comments, and submissions and all other written statements of policy or interpretations formulated, adopted, or used by the agency in the discharge of its functions and publish an index of such rules, preambles, responses to comments, submissions, statements, and interpretations on a regular basis.

(4) Make available for public inspection all final orders, decisions, and opinions.

Acts 1966, No. 382, '2, eff. July 1, 1967. Amended by Acts 1978, No. 252, '1; Acts 1979, No. 578, '1, eff. July 18, 1979; Acts 1990, No. 1085, '1, eff. July 31, 1990; Acts 1993, No. 386, '1.

§953. Procedure for Adoption of Rules

A. Prior to the adoption, amendment, or repeal of any rule, the agency shall:

(1)(a) Give notice of its intended action and a copy of the proposed rules at least ninety days prior to taking action on the rule. The notice shall include:

(i) A statement of either the terms or substance of the intended action or a description of the subjects and issues involved;

(ii) A statement, approved by the legislative fiscal office, of the fiscal impact of the intended action, if any; or a statement, approved by the legislative fiscal office, that no fiscal impact will result from such proposed action;

(iii) A statement, approved by the legislative fiscal office, of the economic impact of the intended action, if any; or a statement, approved by the legislative fiscal office, that no economic impact will result from such proposed action;

(iv) The name of the person within the agency who has the responsibility for responding to inquiries about the intended action;

(v) The time when, the place where, and the manner in which interested persons may present their views thereon; and

(vi) A statement that the intended action complies with the statutory law administered by the agency, including a citation of the enabling legislation.

(vii) A statement indicating whether the agency has prepared a preamble which explains the basis and rationale for the intended action, summarizes the information and data supporting the intended action, and provides information concerning how the preamble may be obtained.

(viii) A statement concerning the impact on family formation, stability, and autonomy as set forth in R.S. 49:972.

(b)(i) The notice shall be published at least once in the Louisiana Register and shall be submitted with a full text of the proposed rule to the Louisiana Register at least one hundred days prior to the date the agency will take action on the rule.

(ii) Upon publication of the notice, copies of the full text of the proposed rule shall be available from the agency proposing the rule upon written request within two working days.

(c) Notice of the intent of an agency to adopt, amend, or repeal any rule and the approved fiscal and economic impact statements, as provided for in this Subsection, shall be mailed to all persons who have made timely request of the agency for such notice, which notice and statements shall be mailed at the earliest possible date, and in no case later than ten days after the date when the proposed rule change is submitted to the Louisiana Register.

(d) For the purpose of timely notice as required by this Paragraph, the date of notice shall be deemed to be the date of publication of the issue of the Louisiana Register in which the notice appears, such publication date to be the publication date as stated on the outside cover or the first page of said issue.

(2)(a) Afford all interested persons reasonable opportunity to submit data, views, comments, or arguments, orally or in writing. In case of substantive rules, opportunity for oral presentation or argument must be granted if requested within twenty days after publication of the rule as provided in this Subsection, by twenty-five persons, by a governmental subdivision or agency, by an association having not less than twenty-five members, or by a committee of either house of the legislature to which the proposed rule change has been referred under the provisions of R.S. 49:968.

(b)(i) Make available to all interested persons copies of any rule intended for adoption, amendment, or repeal from the time the notice of its intended action is published in the Louisiana Register. Any hearing pursuant to the provisions of this Paragraph shall be held no earlier than thirty-five days and no later than forty days after the publication of the Louisiana Register in which the notice of the intended action appears. The agency shall consider fully all written and oral comments and submissions respecting the proposed rule.

(ii) The agency shall issue a response to comments and submissions describing the principal reasons for and against adoption of any amendments or changes suggested in the written or oral comments and submissions. In addition to the response to comments, the agency may prepare a preamble explaining the basis and rationale for the rule, identifying the data and evidence upon which the rule is based, and responding to comments and submissions. Such preamble and response to comments and submissions shall be furnished to the respective legislative oversight subcommittees at least five days prior to the day the legislative oversight subcommittee hearing is to be held on the proposed rule, and shall be made available to interested persons no later than one day following their submission to the appropriate legislative oversight subcommittee. If no legislative oversight hearing is to be held, the agency shall issue a response to comments and submissions and preamble, if any, to any person who presented comments or submissions on the rule and to any requesting person not later than fifteen days prior to the time of publication of the final rule.

(iii) The agency shall, upon request, make available to interested persons the report submitted pursuant to R.S. 49:968(D) no later than one working day following the submittal of such report to the legislative oversight subcommittees.

(3)(a) For the purposes of this Subsection, the statement of fiscal impact shall be prepared by the proposing agency and submitted to the Legislative Fiscal Office for its approval. Such fiscal impact statement shall include a statement of the receipt, expenditure, or allocation of state funds or funds of any political subdivision of the state.

(b) For the purposes of this Subsection, the statement of economic impact shall be prepared by the proposing agency and submitted to the Legislative Fiscal Office for its approval. Such economic impact statements shall include an estimate of the cost to the agency to implement the proposed action, including the estimated amount of paperwork; an estimate of the cost or economic benefit to all persons directly affected by the proposed action; an estimate of the impact of the proposed action on competition and the open market for employment, if applicable; and a detailed statement of the data, assumptions, and methods used in making each of the above estimates.

B.(1) If an agency finds that an imminent peril to the public health, safety, or welfare requires adoption of a rule upon shorter notice than that provided in Subsection A of this Section and within five days of adoption states in writing to the governor of the state of Louisiana, the attorney general of Louisiana, the speaker of the House of Representatives, the president of the Senate, and the Department of the State Register, its reasons for that finding,

it may proceed without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable, to adopt an emergency rule. The provisions of this Paragraph also shall apply to the extent necessary to avoid sanctions or penalties from the United States, or to avoid a budget deficit in the case of medical assistance programs or to secure new or enhanced federal funding in medical assistance programs. The agency statement of its reason for finding it necessary to adopt an emergency rule shall include specific reasons why the failure to adopt the rule on an emergency basis would result in imminent peril to the public health, safety, or welfare, or specific reasons why the emergency rule meets other criteria provided in this Paragraph for adoption of an emergency rule.

(2) Notice of the emergency rule shall be mailed to all persons who have made timely request of the agency for notice of rule changes, which notice shall be mailed within five days of adoption of the emergency rule. The office of the state register may omit from the Louisiana Register any emergency rule the publication of which would be unduly cumbersome, expensive, or otherwise inexpedient, if the emergency rule in printed or processed form is made available on application to the adopting agency, and if the Louisiana Register contains a notice stating the general subject matter of the omitted emergency rule, the reasons for the finding of the emergency submitted by the agency, and stating how a copy thereof may be obtained.

(3) The validity of an emergency rule or fee may be determined in an action for declaratory judgment in the district court of the parish in which the agency is located. The agency shall be made a party to the action. An action for a declaratory judgment under this Paragraph may be brought only by a person to whom such rule or fee is applicable or who would be adversely affected by such rule or fee and only on the grounds that the rule or fee does not meet the criteria for adoption of an emergency rule as provided in Paragraph (1) of this Subsection. The court shall declare the rule or fee invalid if it finds that there is not sufficient evidence that such rule or fee must be adopted on an emergency basis for one or more of the reasons for adoption of an emergency rule as provided in Paragraph (1) of this Subsection. Notwithstanding any other provision of law to the contrary, the emergency rule or fee shall remain in effect until such declaratory judgment is rendered. The provisions of R.S. 49:963 shall not apply to any action brought pursuant to this Paragraph. The provisions of this Paragraph are in addition to R.S. 49:963 and shall not limit any action pursuant to R.S. 49:963.

(4)(a) Within sixty days after adoption of an emergency rule or fee, an oversight subcommittee of either house may conduct a hearing to review the emergency rule or fee and make a determination of whether such rule or fee meets the criteria for an emergency rule or fee as provided in Paragraph (1) of this Subsection and those determinations as provided in R.S. 49:968(D)(3). If within such time period an oversight subcommittee finds an emergency rule or fee unacceptable, it shall prepare a written report containing a copy of the proposed rule or proposed fee action and a summary of the determinations made by the committee and transmit copies thereof as provided in R.S. 49:968(F)(2).

(b) Within sixty days after adoption of an emergency rule or fee, the governor may review such rule or fee and

make the determinations as provided in Subparagraph (a) of this Paragraph. If within such time period the governor finds an emergency rule or fee unacceptable, he shall prepare a written report as provided in Subparagraph (a) and transmit copies thereof to the agency proposing the rule change and the Louisiana Register no later than four days after the governor makes his determination.

(c) Upon receipt by the agency of a report as provided in either Subparagraph (a) or (b) of this Paragraph, the rule or fee shall be nullified and shall be without effect.

C. An interested person may petition an agency requesting the adoption, amendment, or repeal of a rule. Each agency shall prescribe by rule the form for petitions and the procedure for their submission, considerations, and disposition. Within ninety days after submission of a petition, the agency shall either deny the petition in writing, stating reasons for the denial, or shall initiate rule making proceedings in accordance with this Chapter.

D. When a rule is adopted, amended, or repealed in compliance with federal regulations, the adopting agency's notice of intent and the actual text of the rule as published in the Louisiana Register, must be accompanied by a citation of the Federal Register issue in which the determining federal regulation is published, such citation to be by volume, number, date, and page number.

E. Beginning January 1, 1987, no agency shall adopt, amend, or repeal any rule if the accompanying fiscal impact statement approved by the Legislative Fiscal Office indicates that said rule change would result in any increase in the expenditure of state funds, unless said rule is adopted as an emergency rule pursuant to the requirements of this Section or unless the legislature has specifically appropriated the funds necessary for the expenditures associated with said rule change.

F.(1) Notwithstanding any other provision of this Chapter to the contrary, if the Department of Environmental Quality proposes a rule that is not identical to a federal law or regulation or is not required for compliance with a federal law or regulation, the Department of Environmental Quality shall adopt and promulgate such proposed rule separately from any proposed rule or set of proposed rules that is identical to a federal law or regulation or required for compliance with a federal law or regulation. However, if the only difference between the proposed rule or set of proposed rules and the corresponding federal law or regulation is a proposed fee, the Department of Environmental Quality shall not be required to adopt and promulgate such proposed rule or set of proposed rules separately. For purposes of this Subsection, the term "identical" shall mean that the proposed rule has the same content and meaning as the corresponding federal law or regulation.

(2) When the Department of Environmental Quality proposes a rule that is not identical to a corresponding federal law or regulation, or is not required for compliance with a federal law or regulation, the Department of Environmental Quality shall provide a brief summary which explains the basis and rationale for the proposed rule, identifies the data and evidence, if any, upon which the rule is based, and identifies any portions of the proposed rule that differ from federal law or regulation if there is a federal law or regulation which is not identical but which corresponds substantially to the proposed rule. Such summary shall be

provided along with the notice of intent and shall be published in the Louisiana Register or made available along with the proposed rule as provided in Item A(1)(b)(ii) of this Section. The Department of Environmental Quality may also provide such a summary when proposing a rule identical to a corresponding federal law or regulation or proposing a rule which is required for compliance with federal law or regulation to explain the basis and rationale for the proposed rule.

(3) Notwithstanding any other provision of this Chapter to the contrary, when the Department of Environmental Quality proposes a rule that is identical to a federal law or regulation applicable in Louisiana, except as provided in Paragraph (4) of this Subsection, it may use the following procedure for the adoption of the rule:

(a) The department shall publish a notice of the proposed rule at least sixty days prior to taking action on the rule as provided below. The notice, which may include an explanation of the basis and rationale for the proposed rule, shall include all of the following:

(i) A statement of either the terms or substance of the intended action or a description of the subjects and issues involved.

(ii) A statement that no fiscal or economic impact will result from the proposed rule.

(iii) The name of the person within the department who has responsibility for responding to inquiries about the intended action.

(iv) The time, place, and manner in which interested persons may present their views thereon including the notice for a public hearing required by R.S. 30:2011(D)(1).

(v) A statement that the intended action complies with the law administered by the department, including a citation of the specific provision, or provisions, of law which authorize the proposed rule.

(b) Notice of the proposed rule shall be published at least once in the Louisiana Register and shall be submitted with a full text of the proposed rule to the Louisiana Register at least seventy days prior to the date the department proposes to formally adopt the rule. The office of the state register may omit from the Louisiana Register any such proposed rule the publication of which would be unduly cumbersome, expensive, or otherwise inexpedient, if the Louisiana Register contains a notice stating the general subject matter of the omitted proposed rule, the process being employed by the department for adoption of the proposed rule, and stating how a copy of the proposed rule may be obtained.

(c) Notice of the intent of the department to adopt the rule shall be mailed to all persons who have made timely request for such notice, which notice shall be mailed at the earliest possible date, and in no case later than ten days after the date when the proposed rule is submitted to the Louisiana Register.

(d) For the purpose of timely notice as required by this Paragraph, the date of notice shall be deemed to be the date of publication of the issue of the Louisiana Register in which the notice appears, such publication date to be the publication date as stated on the outside cover or the first page of said issue.

(e) The department shall afford all interested persons an opportunity to submit data, views, comments, or arguments related to the proposed rule, in writing, during a period of no less than thirty days. The department shall consider fully all written comments and submissions respecting the proposed rule.

(f) The department shall make available to all interested persons copies of the proposed rule from the time the notice of its adoption is published in the Louisiana Register.

(g) The department shall issue a response to comments and submissions describing the principal reasons for and against adoption of any amendments or changes suggested in the written comments and submissions and specifically addressing any assertion that the proposed rule is not identical to the federal law or regulation upon which it is based. The department shall issue such response to comments and submissions to any person who presented comments or submissions on the rule and to any requesting person no later than fifteen days prior to the time of publication of the final rule.

(h) No later than fifteen days prior to the time of publication of the final rule in the Louisiana Register, the secretary or any authorized assistant secretary of the department shall (i) certify, under oath, to the governor of the state of Louisiana, the attorney general of Louisiana, the speaker of the House of Representatives, the president of the Senate, the chairman of the House Committee on the Environment, the chairman of the Senate Committee on Environmental Quality, and the office of the state register that the proposed rule is identical to a specified federal law or regulation applicable in Louisiana and (ii) furnish the chairman of the Senate Committee on Environmental Quality and the chairman of the House Committee on the Environment the response to comments and submissions required under Subparagraph (g) of this Paragraph, together with a copy of the notice required under Subparagraph (a) of this Paragraph.

(i) Unless specifically requested, in writing, by the chairman of the House Committee on the Environment or the chairman of the Senate Committee on Environmental Quality within ten days of the certification provided under Subparagraph (h) of this Paragraph, there shall be no legislative oversight of the proposed rule. If, however, legislative oversight is properly requested, R.S. 49:968 and Items A(2)(b)(ii) and (iii) of this Section, shall thereafter apply with respect to the proposed rule.

(j) In the absence of legislative oversight, the proposed rule may be adopted by the Department of Environmental Quality no earlier than sixty days, nor later than twelve months, after the official notice of the proposed rule was published in the Louisiana Register; provided, however, that the proposed rule shall be effective upon its publication in the Louisiana Register, said publication to be subsequent to the act of adoption.

(4) The procedures set forth in Paragraph (3) of this Subsection for the adoption by the Department of Environmental Quality of rules identical to federal laws or regulations applicable in Louisiana shall not be available for the adoption of any rules creating or increasing fees.

G.(1) Prior to or concurrent with publishing notice of any proposed policy, standard, or regulation pursuant to

Subsection A of this Section and prior to promulgating any policy, standard, or final regulation whether pursuant to R.S. 49:954 or otherwise under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., the Department of Environmental Quality, after August 15, 1995, shall publish a report, or a summary of the report, in the Louisiana Register which includes:

(a) A statement identifying the specific risks being addressed by the policy, standard, or regulation and any published, peer-reviewed scientific literature used by the department to characterize the risks.

(b) A comparative analysis of the risks addressed by the policy, standard, or regulation relative to other risks of a similar or analogous nature to which the public is routinely exposed.

(c) An analysis based upon published, readily available peer-reviewed scientific literature, describing how the proposed and final policy, standard, or regulation will advance the purpose of protecting human health or the environment against the specified identified risks.

(d) An analysis and statement that, based on the best readily available data, the proposed or final policy, standard, or regulation presents the most cost-effective method practically achievable to produce the benefits intended regarding the risks identified in Subparagraph (a) of this Paragraph.

(2) No regulation shall become effective until the secretary complies with the requirements of Paragraph (1) of this Subsection.

(3) This provision shall not apply in those cases where the policy, standard, or regulation:

(a) Is required for compliance with a federal law or regulation.

(b) Is identical to a federal law or regulation applicable in Louisiana.

(c) Will cost the state and affected persons less than one million dollars, in the aggregate, to implement.

(d) Is an emergency rule under Subsection B of this Section.

(4) For purposes of this Subsection, the term "identical" shall mean that the proposed rule has the same content and meaning as the corresponding federal law or regulation.

(5) In complying with this Section, the department shall consider any scientific and economic studies or data timely provided by interested parties which are relevant to the issues addressed herein and the proposed policy, standard, or regulation being considered.

Acts 1966, No. 382, '3, eff. July 1, 1967. Amended by Acts 1974, No. 284, '1, eff. Jan. 1, 1975; Acts 1975, No. 730, '1; Acts 1976, No. 279, '1; Acts 1978, No. 252, '1; Acts 1980, No. 392, '1. Acts 1983, No. 713, '1; Acts 1984, No. 953, '1; Acts 1985, No. 371, '1, eff. July 9, 1985; Acts 1986, 1st Ex. Sess., No. 11, '1, eff. Jan. 1, 1987; Acts 1987, No. 853, '1; Acts 1990, No. 1063, '1; Acts 1990, No. 1085, '1 and 2, eff. July 31, 1990; Acts 1991, No. 104, '1, eff. June 30, 1991; Acts 1993, No. 119, '1; Acts 1993, No. 274, '1; Acts 1993, No. 386, '1; Acts 1995, No. 512, '1; Acts 1995, No. 642, '1; Acts 1995, No. 1057, '1, eff. June 29, 1995 and Jan. 8, 1996 (1/8/96 date applicable to Dept. of Health and Hospitals only); Acts 1996, 1st Ex. Sess., No. 36, '3, eff. May 7, 1996; Acts 1999, No. 1183, '1.

§954. Filing; Taking Effect of Rules

A. No rule adopted on or after January 1, 1975, is valid unless adopted in substantial compliance with this Chapter. Each rule making agency shall file a certified copy of its rules with the Department of the State Register. No rule, whether adopted before, on, or after January 1, 1975, shall be effective, nor may it be enforced, unless it has been properly filed with the Department of the State Register. No rule, adopted on or after November 1, 1978, shall be effective, nor may it be enforced, unless prior to its adoption a report relative to the proposed rule change is submitted to the appropriate standing committee of the legislature or to the presiding officers of the respective houses as provided in R.S. 49:968. No rule, adopted on or after September 12, 1980, shall be effective, nor may it be enforced, unless the approved economic and fiscal impact statements, as provided in R.S. 49:953A, have been filed with the Department of State Register and published in the Louisiana Register. The inadvertent failure to mail notice and statements to persons making request for such mail notice, as provided in R.S. 49:953, shall not invalidate any rule adopted hereunder. A proceeding under R.S. 49:963 to contest any rule on the grounds of noncompliance with the procedures for adoption, as given in this Chapter, must be commenced within two years from the date upon which the rule became effective.

B. Each rule hereafter adopted shall be effective upon its publication in the Louisiana Register, said publication to be subsequent to the act of adoption, except that:

(1) If a later date is required by statute or specified in the rule, the later date is the effective date.

(2) Subject to applicable constitutional or statutory provisions, an emergency rule shall become effective on the date of its adoption, or on a date specified by the agency to be not more than sixty days future from the date of its adoption, provided written notice is given within five days of the date of adoption to the governor of Louisiana, the attorney general of Louisiana, the speaker of the House of Representatives, and the president of the Senate, and the Department of the State Register as provided in R.S. 49:953(B). Such emergency rule shall not remain in effect beyond the publication date of the Louisiana Register published in the month following the month in which the emergency rule is adopted, unless such rule and the reasons for adoption thereof are published in said issue; provided, however, that any emergency rule so published shall not be effective for a period longer than one hundred twenty days, except as provided by R.S. 49:967(D), but the adoption of an identical rule under Paragraphs (1), (2) and (3) of Subsection A of R.S. 49:953 is not precluded. The agency shall take appropriate measures to make emergency rules known to the persons who may be affected by them.

Acts 1966, No. 382, '4, eff. July 1, 1967. Amended by Acts 1968, No. 474, '1; Acts 1974, No. 284, '1, eff. Jan. 1, 1975; Acts 1975, No. 730, '1; Acts 1978, No. 252, '1; Acts 1980, No. 392, '1; Acts 1990, No. 248, '1; Acts 1990, No. 1085, '1, eff. July 31, 1990.

§954.1. Louisiana Administrative Code and Louisiana Register; Publication; Distribution; Copies; Index; Interagency rules

A. The Department of the State Register shall compile, index, and publish a publication to be known as the

Louisiana Administrative Code, containing all effective rules adopted by each agency subject to the provisions of this Chapter, and all boards, commissions, agencies and departments of the executive branch, notwithstanding any other provision of law to the contrary. The Louisiana Administrative Code shall also contain all executive orders issued by the governor on or after May 9, 1972, which are in effect at the time the Louisiana Administrative Code is published. The Louisiana Administrative Code shall be supplemented or revised as often as necessary and at least once every two years.

B. The Department of the State Register shall publish at least once each month a bulletin to be known as the Louisiana Register which shall set forth the text of all rules filed during the preceding month and such notices as shall have been submitted pursuant to this Chapter. It shall also set forth all executive orders of the governor issued during the preceding month and a summary or digest of and fiscal note prepared for each such order as required by the provisions of R.S. 49:215. In addition, the Department of the State Register may include in the Louisiana Register digests or summaries of new or proposed rules; however, if any conflict should arise between the written digest of a rule and the rule, the rule shall take precedence over the written digest.

C. The Department of the State Register shall publish such rules, notices, statements, and other such matters as submitted by the rulemaking agency without regard to their validity. However, the State Register may omit from the Louisiana Register or Louisiana Administrative Code any rule the publication of which would be unduly cumbersome, expensive, or otherwise inexpedient, if the rule in printed or processed form is made available on application to the adopting agency, and if the Louisiana Register or Louisiana Administrative Code, as the case may be, contains a notice stating the general subject matter of the omitted rule and stating how a copy thereof may be obtained.

D. One copy, or multiple copies if practical, of the Louisiana Register and Louisiana Administrative Code shall be made available upon request to state depository libraries free of charge, and to other agencies or persons at prices fixed by the department of the state register to recover all or a portion of the mailing and publication costs. Notwithstanding the provisions of R.S. 49:951(2) of this Chapter to the contrary, the department of the state register shall provide free copies of the Louisiana Register and the Louisiana Administrative Code to the David R. Poynter Legislative Research Library, the Senate Law Library, and the Huey P. Long Memorial Law Library.

E. The Department of the State Register shall prescribe a uniform system of indexing, numbering, arrangement of text and citation of authority and history notes for the Louisiana Administrative Code.

F. The Department of the State Register may publish advertisements for bids and other legal notices in the Louisiana Register in addition to other publications thereof required by law.

G. The Department of the State Register is hereby authorized and empowered to promulgate and enforce interagency rules for the implementation and administration of this Section.

H. The governor shall be the publisher of the Louisiana Administrative Code and Louisiana Register provided for through the Department of the State Register.

Added by Acts 1974, No. 284, '1, eff. Jan. 1, 1975. Amended by Acts 1975, No. 730, '1; Acts 1976, No. 279, '1; Acts 1978, No. 252, '1; Acts 1982, No. 687, '1, eff. Aug. 2, 1982; Acts 1988, No. 604, '1, eff. July 14, 1988; Acts 1988, No. 937, '1, eff. July 26, 1988; Acts 1990, No. 9, '2; Acts 1993, No. 119, '1.

§954.2. Unified Oil and Gas Development Regulatory Index; Summary

A. All regulatory agencies which have authority to issue or promulgate any general or special rule or regulation, or which issue, monitor compliance with, or otherwise regulate any permit or license, relative to oil and gas development, all as defined in this Section, shall index and summarize the rules or regulations in a manner which, if the language of the rule or regulation has general applicability to other types of businesses or other situations, plainly state or otherwise indicate:

(1) The extent of their applicability to oil and gas development.

(2) The types of permits or licenses which will be required, or which may be required, of any entity in the oil and gas development business.

B. Such index and summaries shall be filed with the office of the commissioner of conservation within the Department of Natural Resources, hereafter referred to as "the commissioner", by December 1, 1992. The commissioner shall make a written acknowledgement of his receipt of the index and summaries and the date thereof.

C. Any agency required to index and summarize its rules and regulations related to oil and gas development shall also file with the commissioner the information required in Subsection A regarding any agency rule or regulation which is finally promulgated or adopted after December 1, 1992, within twenty days of such final promulgation or adoption, along with an indication of its place in the index and summary previously filed with the commissioner.

D. The commissioner may make a written critique of any submission of an index and summaries which the commissioner determines to be unclear or confusing as it relates to oil and gas development, which critique shall contain reasons and/or clarifying questions. The agency shall respond to the critique in a form acceptable to the commissioner within twenty days. It is the intention of this Section that the various departments and offices which have authority to issue rules and regulations under law retain that authority. The commissioner shall only have the authority under this Section to critique submitted indexes and summaries so as to require a satisfactory response to his written reasons or questions concerning how they relate to oil and gas development.

E. After the commissioner has received and approved all of the indexes and summaries required to be received by December 1, 1992, he shall then proceed to merge and compile the indexes and summaries received so as to create a Unified Oil and Gas Regulatory Index. The commissioner shall complete the index within six months. Upon completion of such unified index, the commissioner shall proceed to promulgate such index, and any subsequent amendments, in the manner provided for in this Chapter.

However, the commissioner shall only make such technical revisions of the index during such procedure as is authorized by the agency which promulgated the original rule or regulation.

F. One copy of the Unified Oil and Gas Development Regulatory Index shall be made available to each of the regulatory agencies and to other persons at a reasonable price to be set by the commissioner.

G. Notwithstanding any other law to the contrary, no rule or regulation or permit or license provided for in Subsection A shall be effective, nor shall it be enforced, nor shall its content be considered by any court or any administrative hearing officer or board or other judicial or quasi-judicial body as a valid administrative construction or interpretation of any law, to the detriment of any applicant for a permit related to oil and gas development after December 1, 1992, in any civil or criminal action or proceeding if the filing, or the response to a critique by the secretary, of the index and summaries containing such rule or regulation or license or permit has not been timely made as required in this Section.

H. For purposes of this Section, the following terms shall have the following definitions:

(1) "Index and summaries" means a list of all rules and regulations in numerical order which have general or specific applicability to oil and gas development and environmental matters, with accompanying summaries indicating how the rule applies to oil and gas development.

(2) "Oil and gas development" means the activity of exploring for, locating, transporting property to an oil or gas well drilling site, and the constructing, operating, or maintaining of the land, equipment, buildings, structures, or other property at such site until the well is completed and capable of producing.

(3) "Permit or license" means any permit, license, variance, registration, compliance schedule, order, or any other grant of right or privilege, or any change, renewal, or extension thereof, relative to oil and gas development.

(4) "Regulatory agency" means any office or unit of the Department of Environmental Quality, the Department of Natural Resources, the Department of Revenue, the Mineral Board, and the Wildlife and Fisheries Commission or Department.

(5) "Rule or regulation" means any general or special rule, as that term is defined in R.S. 49:951(6), relative to oil and gas development.

Acts 1991, No. 735, '1, eff. July 18, 1991; Acts 1992, No. 589, '1, eff. July 15, 1992.

§954.3. Environmental Regulatory Code

The Department of Environmental Quality shall codify its rules and regulations in effect on March 1, 1992, in the Environmental Regulatory Code, and thereafter, shall update such codification of its rules and regulations on a quarterly basis. The secretary shall complete and offer for sale at cost the initial codification within one hundred and eighty days from March 1, 1992.

Acts 1991, No. 735, '2, eff. July 18, 1991.

§955. Adjudication; Notice; Hearing; Records

A. In an adjudication, all parties who do not waive their rights shall be afforded an opportunity for hearing after reasonable notice.

B. The notice shall include:

(1) A statement of the time, place, and nature of the hearing;

(2) A statement of the legal authority and jurisdiction under which the hearing is to be held;

(3) A reference to the particular sections of the statutes and rules involved;

(4) A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished.

C. Opportunity shall be afforded all parties to respond and present evidence on all issues of fact involved and argument on all issues of law and policy involved and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

D. Unless precluded by law, informal disposition may be made of any case of adjudication by stipulation, agreed settlement, consent order, or default.

E. The record in a case of adjudication shall include:

(1) All pleadings, motions, intermediate rulings;

(2) Evidence received or considered or a resume thereof if not transcribed;

(3) A statement of matters officially noticed except matters so obvious that statement of them would serve no useful purpose;

(4) Offers of proof, objections, and rulings thereon;

(5) Proposed findings and exceptions;

(6) Any decision, opinion, or report by the officer presiding at the hearing.

F. The agency shall make a full transcript of all proceedings before it when the statute governing it requires it, and, in the absence of such requirement, shall, at the request of any party or person, have prepared and furnish him with a copy of the transcript or any part thereof upon payment of the cost thereof unless the governing statute or constitution provides that it shall be furnished without cost.

G. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

Acts 1966, No. 382, '5, eff. July 1, 1967.

§956. Rules of Evidence; Official Notice; Oaths and Affirmations; Subpoenas; Depositions and Discovery; and Confidential Privileged Information

In adjudication proceedings:

(1) Agencies may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. They shall give effect to the rules of privilege recognized by law. Agencies may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

(2) All evidence, including records and documents in the possession of the agency of which it desires to avail

itself, shall be offered and made a part of the record, and all such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. In case of incorporation by reference, the materials so incorporated shall be available for examination by the parties before being received in evidence.

(3) Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

(4) Any agency or its subordinate presiding officer conducting a proceeding subject to this Chapter shall have the power to administer oaths and affirmations, regulate the course of the hearings, set the time and place for continued hearings, fix the time for filing of briefs and other documents, and direct the parties to appear and confer to consider the simplification of the issues.

(5)(a) Any agency or its subordinate presiding officer shall have power to sign and issue subpoenas in the name of the agency requiring attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence. No subpoena shall be issued until the party who wishes to subpoena the witness first deposits with the agency a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671.

(b) A subpoena issued pursuant to this Section shall be served by any agent of the agency, by the sheriff, by any other officer authorized by law to serve process in this state, by certified mail, return receipt requested, or by any person who is not a party and who is at least eighteen years of age. Witnesses subpoenaed to testify before an agency only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examinations, and to state the results thereof, shall receive such additional compensation from the party who wishes to subpoena such witness as may be fixed by the agency with reference to the value of the time employed and the degree of learning or skill required.

(c) Whenever any person summoned under this Section neglects or refuses to obey such summons, or to produce books, papers, records, or other data, or to give testimony, as required, the agency may apply to the judge of the district court for the district within which the person so summoned resides or is found, for an attachment against him as for a contempt. It shall be the duty of the judge to hear the application, and, if satisfactory proof is made, to issue an attachment, directed to some proper officer, for the arrest of such person, and upon his being brought before him, to proceed to a hearing of the case; and upon such hearing, the judge shall have power to make such order as he shall deem proper, not inconsistent with the law for the punishment of contempts, to enforce obedience to the requirements of the summons and to punish such person for his default or disobedience.

(6) The agency or a subordinate presiding officer or any party to a proceeding before it may take the depositions of witnesses, within or without the state and may conduct discovery in all manners as provided by law in civil actions. Depositions so taken and admissions, responses, and evidence produced pursuant to discovery shall be admissible in any proceeding affected by this Chapter. The admission of such depositions, admissions, responses, and evidence may be objected to at the time of hearing and may be received in evidence or excluded from the evidence by the agency or presiding officer in accordance with the rules of evidence provided in this Chapter.

(7) Repealed by Acts 1995, No. 760, '2, eff. June 27, 1995.

(8)(a) Records and documents, in the possession of any agency or of any officer or employee thereof including any written conclusions drawn therefrom, which are deemed confidential and privileged shall not be made available for adjudication proceedings of that agency and shall not be subject to subpoena by any person or other state or federal agency.

(b) Such records or documents shall only include any private contracts, geological and geophysical information and data, trade secrets and commercial or financial data, which are obtained by an agency through a voluntary agreement between the agency and any person, which said records and documents are designated as confidential and privileged by the parties when obtained, or records and documents which are specifically exempt from disclosure by statute.

(c) Any violation of this prohibition shall be a waiver of governmental immunity from suit for damage resulting from any such disclosure.

(d) Notwithstanding the provisions of Subparagraphs (a) and (c) of this Paragraph the state boards and agencies identified in R.S. 13:3715.1(J) may make available and use records and documents, including any written conclusions drawn therefrom, which are otherwise deemed confidential or privileged and which are in the possession of such board or agency or any officer, employee, or agent thereof, or any attorney acting on its behalf in any adjudication proceedings of such agency, provided that in any case involving medical or patient records, the identity of any patient shall be maintained in confidence. Any such records shall be altered so as to prevent the disclosure of the identity of the patient to whom such records or testimony relates. Disclosure by such board or agency or any officer, employee, agent, or attorney acting on behalf of any of them, of any material otherwise deemed privileged or confidential under state law, which is made in response to a federal subpoena, shall not constitute a waiver of governmental immunity from suit for damages resulting from such disclosure. Such boards and agencies, including their officers, employees, agents, and attorneys, shall nevertheless assert any privilege which is recognized and applicable under federal law when responding to any such federal subpoena.

Acts 1966, No. 382, '6, eff. July 1, 1967. Amended by Acts 1976, No. 524, '1, eff. Aug. 5, 1976; Acts 1989, No. 156, '1; Acts 1995, No. 760, '1, 2, eff. June 27, 1995; Acts 1999, No. 416, '1; Acts 1999, No. 765, '1.

§957. Examination of Evidence by Agency

When in an adjudication proceeding a majority of the officials of the agency who are to render the final decision have not heard the case or read the record, or the proposed order is not prepared by a member of the agency, the decision, if adverse to a party to the proceeding other than the agency itself, shall not be made final until a proposed order is served upon the parties, and an opportunity is afforded to each party adversely affected to file exceptions and present briefs and oral argument to the officials who are to render the decision. The proposed order shall be accompanied by a statement of the reasons therefor and of the disposition of each issue of fact or law necessary to the proposed order, prepared by the person who conducted the hearing or by one who has read the record. No sanction shall be imposed or order be issued except upon consideration of the whole record and as supported by and in accordance with the reliable, probative, and substantial evidence. The parties by written stipulation may waive, and the agency in the event there is no contest may eliminate, compliance with this Section.

Acts 1966, No. 382, '7, eff. July 1, 1967.

§958. Decisions and Orders

A final decision or order adverse to a party in an adjudication proceeding shall be in writing or stated in the record. A final decision shall include findings of fact and conclusions of law. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If, in accordance with agency rules, a party submitted proposed findings of fact, the decision shall include a ruling upon each proposed finding. Parties shall be notified either personally or by mail of any decision or order. Upon request, a copy of the decision or order shall be delivered or mailed forthwith to each party and to his attorney of record. The parties by written stipulation may waive, and the agency in the event there is no contest may eliminate, compliance with this Section.

Acts 1966, No. 382, '1, eff. July 1, 1967.

§959. Rehearings

A. A decision or order in a case of adjudication shall be subject to rehearing, reopening, or reconsideration by the agency, within ten days from the date of its entry. The grounds for such action shall be either that:

- (1) The decision or order is clearly contrary to the law and the evidence;
- (2) The party has discovered since the hearing evidence important to the issues which he could not have with due diligence obtained before or during the hearing;
- (3) There is a showing that issues not previously considered ought to be examined in order properly to dispose of the matter; or
- (4) There is other good ground for further consideration of the issues and the evidence in the public interest.

B. The petition of a party for rehearing, reconsideration, or review, and the order of the agency granting it, shall set forth the grounds which justify such action. Nothing in this Section shall prevent rehearing, reopening or reconsideration of a matter by any agency in accordance with other statutory provisions applicable to such agency, or, at any time, on the ground of fraud practiced by the prevailing party or of

procurement of the order by perjured testimony or fictitious evidence. On reconsideration, reopening, or rehearing, the matter may be heard by the agency, or it may be referred to a subordinate deciding officer. The hearing shall be confined to those grounds upon which the reconsideration, reopening, or rehearing was ordered. If an application for rehearing shall be timely filed, the period within which judicial review, under the applicable statute, must be sought, shall run from the final disposition of such application.

Acts 1966, No. 382, '9, eff. July 1, 1967.

§960. Ex Parte Consultations and Recusations

A. Unless required for the disposition of ex parte matters authorized by law, members or employees of an agency assigned to render a decision or to make findings of fact and conclusions of law in a case of adjudication noticed and docketed for hearing shall not communicate, directly or indirectly, in connection with any issue of fact or law, with any party or his representative, or with any officer, employee, or agent engaged in the performance of investigative, prosecuting, or advocating functions, except upon notice and opportunity for all parties to participate.

B. A subordinate deciding officer or agency member shall withdraw from any adjudicative proceeding in which he cannot accord a fair and impartial hearing or consideration. Any party may request the disqualification of a subordinate deciding officer or agency member, on the ground of his inability to give a fair and impartial hearing, by filing an affidavit, promptly upon discovery of the alleged disqualification, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. The issue shall be determined promptly by the agency, or, if it affects a member or members of the agency, by the remaining members thereof, if a quorum. Upon the entry of an order of disqualification affecting a subordinate deciding officer, the agency shall assign another in his stead or shall conduct the hearing itself. Upon the disqualification of a member of an agency, the governor immediately shall appoint a member pro tem to sit in place of the disqualified member in that proceeding. In further action, after the disqualification of a member of an agency, the provisions of R.S. 49:957 shall apply.

Acts 1966, No. 382, '10, eff. July 1, 1967.

§961. Licenses

A. When the grant, denial, or renewal of a license is required to be preceded by notice and opportunity for hearing, the provisions of this Chapter concerning adjudication shall apply.

B. When a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license shall not expire until the application has been finally determined by the agency, and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

C. No revocation, suspension, annulment, or withdrawal of any license is lawful unless, prior to the institution of agency proceedings, the agency gives notice by mail to the licensee of facts or conduct which warrant the intended action, and the licensee is given an opportunity to show compliance with all lawful requirements for the retention of the license. If the agency finds that public health, safety, or

welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

Acts 1966, No. 382, '11, eff. July 1, 1967.

§962. Declaratory Orders and Rulings

Each agency shall provide by rule for the filing and prompt disposition of petitions for declaratory orders and rulings as to the applicability of any statutory provision or of any rule or order of the agency. Declaratory orders and rulings shall have the same status as agency decisions or orders in adjudicated cases.

Acts 1966, No. 382, '12, eff. July 1, 1967; Acts 1995, No. 947, '6, eff. Jan. 1, 1996.

§962.1. Judicial Review, Rule to Show Cause for Permit Applicants

A. If the secretary does not grant or deny a permit, license, registration, variance, or compliance schedule for which the applicant had applied within the time period as provided for in R.S. 30:26 and 2022(C), R.S. 49:214.30(C)(2), and R.S. 56:6(26), the applicant has the authority, on motion in a court of competent jurisdiction, to take a rule on the secretary to show cause in not less than two nor more than thirty days, exclusive of holidays, why the applicant should not be granted the permit, license, registration, variance, or compliance schedule for which the applicant had applied. The rule may be tried out of term and in chambers.

B. In any trial or hearing on the rule, the applicant shall be entitled to a presumption that the facts as stated in the affidavit of the applicant, which shall be attached to the rule are true. The rule of the applicant shall be denied by the court only if the secretary provides clear and convincing evidence of an unavoidable cause for the delay. However, in denying the rule, the court shall decree that the secretary shall grant or deny the application within a time set by the court, or the application shall be granted without further action of the secretary or the court.

C. If the rule is made absolute, the order rendered thereon shall be considered a judgment in favor of the applicant granting the applicant the permit, license, registration, variance, or compliance schedule for which the applicant had applied.

D. The provisions of Subsections A, B, and C of this Section shall not apply to permit applications submitted under the Louisiana Pollutant Discharge Elimination System (LPDES) program under the Louisiana Department of Environmental Quality.

Acts 1991, No. 828, '2; Acts 1995, No. 601, '2.

§963. Judicial Review of Validity or Applicability of Rules

A.(1) The validity or applicability of a rule may be determined in an action for declaratory judgment in the district court of the parish in which the agency is located.

(2) The agency shall be made a party to the action.

B.(1) If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the agency, the court may order that the additional evidence be

taken before the agency upon conditions determined by the court.

(2) The agency may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court.

C. The court shall declare the rule invalid or inapplicable if it finds that it violates constitutional provisions or exceeds the statutory authority of the agency or was adopted without substantial compliance with required rulemaking procedures.

D. An action for a declaratory judgment under this Section may be brought only after the plaintiff has requested the agency to pass upon the validity or applicability of the rule in question and only upon a showing that review of the validity and applicability of the rule in conjunction with review of a final agency decision in a contested adjudicated case would not provide an adequate remedy and would inflict irreparable injury.

E. Upon a determination by the court that any statement, guide, requirement, circular, directive, explanation, interpretation, guideline, or similar measure constitutes a rule as defined by R.S. 49:951(6) and that such measure has not been properly adopted and promulgated pursuant to this Chapter, the court shall declare the measure invalid and inapplicable. It shall not be necessary that all administrative remedies be exhausted.

Acts 1966, No. 382, '13, eff. July 1, 1967; Acts 1991, No. 639, '1, eff. July 17, 1991; Acts 1997, No. 1043, '1, eff. July 11, 1997.

§964. Judicial Review of Adjudication

A.(1) Except as provided in R.S. 15:1171 through 1177, a person who is aggrieved by a final decision or order in an adjudication proceeding is entitled to judicial review under this Chapter whether or not he has applied to the agency for rehearing, without limiting, however, utilization of or the scope of judicial review available under other means of review, redress, relief, or trial de novo provided by law. A preliminary, procedural, or intermediate agency action or ruling is immediately reviewable if review of the final agency decision would not provide an adequate remedy and would inflict irreparable injury.

(2) No agency or official thereof, or other person acting on behalf of an agency or official thereof shall be entitled to judicial review under this Chapter.

B. Proceedings for review may be instituted by filing a petition in the district court of the parish in which the agency is located within thirty days after mailing of notice of the final decision by the agency or, if a rehearing is requested, within thirty days after the decision thereon. Copies of the petition shall be served upon the agency and all parties of record.

C. The filing of the petition does not itself stay enforcement of the agency decision. The agency may grant, or the reviewing court may order, a stay ex parte upon appropriate terms, except as otherwise provided by Title 37 of the Louisiana Revised Statutes of 1950, relative to professions and occupations. The court may require that the stay be granted in accordance with the local rules of the reviewing court pertaining to injunctive relief and the issuance of temporary restraining orders.

D. Within thirty days after the service of the petition, or within further time allowed by the court, the agency shall

transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review. By stipulation of all parties to the review proceedings, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require or permit subsequent corrections or additions to the record.

E. If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the agency, the court may order that the additional evidence be taken before the agency upon conditions determined by the court. The agency may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court.

F. The review shall be conducted by the court without a jury and shall be confined to the record. In cases of alleged irregularities in procedure before the agency, not shown in the record, proof thereon may be taken in the court. The court, upon request, shall hear oral argument and receive written briefs.

G. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (1) In violation of constitutional or statutory provisions;
- (2) In excess of the statutory authority of the agency;
- (3) Made upon unlawful procedure;
- (4) Affected by other error of law;
- (5) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or
- (6) Not supported and sustainable by a preponderance of evidence as determined by the reviewing court. In the application of this rule, the court shall make its own determination and conclusions of fact by a preponderance of evidence based upon its own evaluation of the record reviewed in its entirety upon judicial review. In the application of the rule, where the agency has the opportunity to judge the credibility of witnesses by first-hand observation of demeanor on the witness stand and the reviewing court does not, due regard shall be given to the agency's determination of credibility issues.

(7) In cases covered by R.S. 15:1171 through 1177, manifestly erroneous in view of the reliable, probative, and substantial evidence on the whole record. In the application of the rule, where the agency has the opportunity to judge the credibility of witnesses by firsthand observation of demeanor on the witness stand and the reviewing court does not, due regard shall be given to the agency's determination of credibility issues.

Acts 1966, No. 382, '14, eff. July 1, 1967; Acts 1995, No. 1105, '1, eff. June 29, 1995; Acts 1997, No. 128, '1, eff. June 12, 1997; Acts 1997, No. 1216, '2; Acts 1997, No. 1224, '1; H.C.R. No. 89, 1997 R.S., eff. June 2, 1997; Acts 1999, No. 1332, '1, eff. July 12, 1999.

§965. Appeals

An aggrieved party may obtain a review of any final judgment of the district court by appeal to the appropriate circuit court of appeal. The appeal shall be taken as in other civil cases.

Acts 1966, No. 382, '15, eff. July 1, 1967.

§965.1. Expenses of Administrative Proceedings; Right to Recover

A. When a small business files a petition seeking:

- (1) relief from the application or enforcement of an agency rule or regulation,
- (2) judicial review of the validity or applicability of an agency rule,
- (3) judicial review of an adverse declaratory order or ruling, or
- (4) judicial review of a final decision or order in an adjudication proceeding, the petition may include a claim against the agency for the recovery of reasonable litigation expenses. If the small business prevails and the court determines that the agency acted without substantial justification, the court may award such expenses, in addition to granting any other appropriate relief.

B. A small business shall be deemed to have prevailed in an action when, in the final disposition, its position with respect to the agency rule or declaratory order or ruling is maintained, or when there is no adjudication, stipulation, or acceptance of liability on its part. However, a small business shall not be deemed to have prevailed, if the action was commenced at the instance of, or on the basis of a complaint by, anyone other than an officer, agent, or employee of the agency and was dismissed by the agency on a finding of no cause for the action or settled without a finding of fault on the part of the small business.

C. An agency shall pay any award made against it pursuant to this Section from funds in its regular operating budget and shall, at the time of its submission of its proposed annual budget, submit to the division of administration and to the presiding officer of each house of the legislature a report of all such awards paid during the previous fiscal year.

D. As used in this Section:

(1) "Reasonable litigation expenses" means any expenses, not exceeding seven thousand five hundred dollars in connection with any one claim, reasonably incurred in opposing or contesting the agency action, including costs and expenses incurred in both the administrative proceeding and the judicial proceeding, fees and expenses of expert or other witnesses, and attorney fees.

(2) "Small business" means a small business as defined by the Small Business Administration, which for purposes of size eligibility or other factors, meets the applicable criteria set forth in 13 Code of Federal Regulations, Part 121, as amended.

Added by Acts 1982, No. 497, '1.

§966. Construction and Effect; Judicial Cognizance

A. Nothing in this Chapter shall be held to diminish the constitutional rights of any person or to limit or repeal additional requirements imposed by statute or otherwise recognized by law. Notwithstanding the foregoing, and except as provided in R.S. 49:967, any and all statutory requirements regarding the adoption or promulgation of rules other than those contained in Sections 953, 954, 954.1

and 968 of this Title are hereby superseded by the provisions of this Chapter and are repealed. Except as otherwise required by law, all requirements or privileges relating to evidence or procedure shall apply equally to agencies and persons. Every agency is granted all authority necessary to comply with the requirements of this Chapter through the issuance of rules or otherwise.

B. If any provision of this Chapter or the application thereof is held invalid, the remainder of this Chapter or other applications of such provision shall not be affected. No subsequent legislation shall be held to supersede or modify the provisions of this Chapter except to the extent that such legislation shall do so expressly.

C. The courts of this state shall take judicial cognizance of rules promulgated in the State Register under the provisions of this Chapter.

D. Repealed by Acts 1978, No. 252, ' 3.

Acts 1966, No. 382, ' 16, eff. July 1, 1967. Amended by Acts 1979, No. 578, ' ' 1, 2, eff. July 18, 1979.

§967. Exemptions from Provisions of Chapter

A. Chapter 13 of Title 49 of the Louisiana Revised Statutes of 1950 shall not be applicable to the Board of Tax Appeals, the Department of Revenue, with the exception of the Louisiana Tax Commission that shall continue to be governed by this Chapter in its entirety, unless otherwise specifically provided by law, and the administrator of the Louisiana Employment Security Law; however, the provisions of R.S. 49:951(2), (4), (5), (6), and (7), 952, 953, 954, 954.1, 968, 969, and 970 shall be applicable to such board, department, and administrator.

B.(1) The provisions of R.S. 49:968(F) and 970 shall not be applicable to any rule promulgated by the State Civil Service Commission or the Public Service Commission.

(2) The provisions of this Chapter shall not be applicable to entities created as provided in Part V of Chapter 6 of Title 34 of the Louisiana Revised Statutes of 1950.

C. The provisions of R.S. 49:963, 964, and 965 shall not be applicable to any rule, regulation, or order of any agency subject to a right of review under the provisions of R.S. 30:12.

D.(1) The provisions of R.S. 49:968 shall not apply to any rule or regulation promulgated by the Department of Wildlife and Fisheries or the Wildlife and Fisheries Commission relative to hunting seasons, trapping seasons, alligator seasons, shrimp seasons, oyster seasons, finfish seasons and size limits, and all rules and regulations pursuant thereto. The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission may employ the provisions of R.S. 49:953(B) in promulgating rules and regulations relative to hunting seasons, trapping seasons, alligator seasons, shrimp seasons, oyster seasons, and finfish seasons and size limits, and all rules and regulations pursuant thereto.

(2) Those rules adopted annually pursuant to this Subsection by the Department of Wildlife and Fisheries which open and close the offshore and fall shrimp seasons, the oyster season, the marine finfish seasons, the webless migratory game bird hunting season, and the trapping season shall be effective for a period of time equal to the length of the respective season.

Acts 1983, No. 409, ' 2. Acts 1984, No. 244, ' 1; Acts 1985, No. 869, ' 1, eff. July 23, 1985; Acts 1986, No. 494, ' 1; Acts 1990, No. 248, ' 1; Acts 1992, No. 53, ' 1; Acts 1997, No. 1172, ' 9, eff. June 30, 1997; Acts 1997, No. 1484, ' 1, eff. July 16, 1997.

§968. Review of Agency Rules; Fees

A. It is the declared purpose of this Section to provide a procedure whereby the legislature may review the exercise of rule-making authority and the adoption, increasing, or decreasing of fees, extensions of the legislative lawmaking function, which it has delegated to state agencies.

B. Prior to the adoption, amendment, or repeal of any rule or the adoption, increasing, or decreasing of any fee, the agency shall submit a report relative to such proposed rule change or fee adoption, increase, or decrease to the appropriate standing committees of the legislature and the presiding officers of the respective houses as provided in this Section. The report shall be so submitted on the same day the notice of the intended action is submitted to the Louisiana Register for publication in accordance with R.S. 49:953(A)(1). The report shall be submitted to each standing committee at the committee's office in the state capitol by certified mail with return receipt requested or by messenger who shall provide a receipt for signature. The return receipt or the messenger's receipt shall be proof of receipt of the report by the committee.

(1) The Department of Economic Development and all of the agencies made a part of it shall submit the report to the House Committee on Commerce and the Senate Committee on Commerce.

(2) Corrections services of the Department of Public Safety and Corrections and all the agencies of the department related to corrections and concealed weapons and concealed weapon permits, except as otherwise provided in this Subsection, the Louisiana State Board of Private Security Examiners, and the gaming enforcement section of the office of state police within the Department of Public Safety and Corrections shall submit all reports other than reports on proposed rule changes affecting prison enterprise programs, to the House Committee on Administration of Criminal Justice and the Senate Committee on Judiciary, Section C; however, the Crime Victims Reparation Board shall submit the report to the House Committee on the Judiciary and the Senate Committee on the Judiciary, Section B.

(3) The Department of Culture, Recreation and Tourism and all of the agencies made a part of it, except as otherwise provided in this Paragraph, shall submit the report to the House Committee on Municipal, Parochial and Cultural Affairs and the Senate Committee on Commerce.

(a) The office of the state library, the office of the state museum, the State Board of Library Examiners, the Louisiana Archaeological Survey and Antiquities Commission, the Board of Directors of the Louisiana State Museum, the Board of Commissioners of the State Library of Louisiana, the Louisiana State Arts Council, the Louisiana State Capitol Fiftieth Anniversary Commission, and the Louisiana National Register Review Committee shall submit the report to the House Committee on Municipal, Parochial and Cultural Affairs and the Senate Committee on Education.

(b) The office of state parks and the State Parks and Recreation Commission shall submit the report to the House Committee on Municipal, Parochial and Cultural Affairs and the Senate Committee on Natural Resources.

(c) The office of tourism and promotion and the Louisiana Tourist Development Commission shall submit the report to the House Committee on Commerce and the Senate Committee on Commerce.

(4) The Department of State and all of the agencies made a part of it shall submit a report to the House Committee on House and Governmental Affairs and the Senate Committee on Senate and Governmental Affairs.

(5) The Department of Labor and all of the agencies made a part of it shall submit the report to the House Committee on Labor and Industrial Relations and the Senate Committee on Labor and Industrial Relations.

(6) The Department of Transportation and Development and all of the agencies made a part of it shall submit the report, to the House Committee on Transportation, Highways and Public Works and the Senate Committee on Transportation, Highways and Public Works. The department shall also submit to the standing committees any policies or priorities developed for the expenditure or distribution of any monies from the Transportation Trust Fund as created by Article VII, Section 27 of the Constitution of Louisiana. The policies and priorities shall be submitted for review purposes only.

(7) The Department of Elections and Registration and all of the agencies made a part of it shall submit the report to the House Committee on House and Governmental Affairs and the Senate Committee on Senate and Governmental Affairs.

(8) The Department of Justice and all of the agencies made a part of it shall submit the report to the House Committee on the Judiciary and the Senate Committee on the Judiciary, Section C.

(9) The Department of Civil Service and all of the agencies made a part of it shall submit the report to the House Committee on House and Governmental Affairs and the Senate Committee on Senate and Governmental Affairs.

(10) The Department of Revenue and all of the agencies made a part of it, except as otherwise provided in this Paragraph, shall submit the report to the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs; however, the office of charitable gaming shall submit the report to the House Committee on Administration of Criminal Justice and the Senate Committee on Judiciary, Section B.

(11) The Department of Natural Resources and all of the agencies made a part of it shall submit the report to the House Committee on Natural Resources and the Senate Committee on Natural Resources.

(12) Public Safety Services of the Department of Public Safety and Corrections and all the agencies of the department related to public safety, except as otherwise provided in this Subsection, shall submit the report to the House Committee on the Judiciary and the Senate Committee on the Judiciary, Section B; however, the office of motor vehicles shall submit the report to the House Committee on Transportation, Highways and Public Works and the Senate Committee on the Judiciary, Section B.

(13) The Department of Wildlife and Fisheries and all of the agencies made a part of it shall submit the report to the House Committee on Natural Resources and the Senate Committee on Natural Resources.

(14) The Department of Insurance and all of the agencies made a part of it shall submit the report to the House Committee on Insurance and the Senate Committee on Insurance.

(15)(a) The Department of the Treasury and all of the agencies made a part of it, except as otherwise provided in this Paragraph, shall submit the report to the House Committee on Appropriations and the Senate Committee on Finance.

(b) Each retirement system made a part of the Department of the Treasury shall submit the report to the House Committee on Retirement and the Senate Committee on Retirement.

(16) The Department of Health and Hospitals and all of the agencies made a part of it shall submit the report to the House Committee on Health and Welfare and the Senate Committee on Health and Welfare.

(17) The Department of Social Services and all of the agencies made a part of it shall submit the report to the House Committee on Health and Welfare and the Senate Committee on Health and Welfare.

(18) The Department of Agriculture and all of the agencies made a part of it shall submit all reports, and the Department of Public Safety and Corrections and all the agencies made a part of it shall submit reports on proposed rule changes affecting prison enterprise programs, to the House Committee on Agriculture and the Senate Committee on Agriculture.

(19) The Department of Education and all of the agencies made a part of it shall submit the report to the House Committee on Education and the Senate Committee on Education.

(20) The Department of Public Service and all of the agencies made a part of it shall submit the report to the House Committee on Commerce and the Senate Committee on Commerce.

(21)(a) The office of the governor and the office of the lieutenant governor and all of the agencies within or part of either and any other agency for which provisions are not otherwise made in this Subsection, shall submit the report to the speaker of the House of Representatives and the president of the Senate, except that executive orders duly issued by the governor and attested to by the secretary of state are exempt from the provisions of this Chapter. The speaker of the House of Representatives and the president of the Senate shall promptly forward the report to the appropriate standing committee of their respective houses.

(b) The Louisiana Workforce Commission shall submit the report to the House Committee on Labor and Industrial Relations and the Senate Committee on Labor and Industrial Relations.

(22) The Department of Environmental Quality and all of the agencies made a part of it shall submit the report to the House Committee on the Environment and the Senate Committee on Environmental Quality.

(23) The Louisiana Sentencing Commission shall submit the report to the House Committee on the

Administration of Criminal Justice and the Senate Committee on the Judiciary, Section C.

(24) In addition to the submission of a report relative to a proposed rule change or fee adoption, increase, or decrease by an agency to the appropriate standing committee as specified in Paragraphs (1) through (23) of this Subsection, whenever the fiscal impact of the rule or fee adoption, increase, or decrease, as indicated by the statement of fiscal impact required by R.S. 49:968(C)(5), exceeds one million dollars, the report on the proposed rule change or fee adoption, increase, or decrease shall also be submitted to the Senate Committee on Finance and the House Committee on Appropriations and shall be subject to review by those committees in the same manner and to the same extent as the review of the standing committees provided for in Paragraphs (1) through (23) of this Subsection.

C. The report, as provided for in Subsection B of this Section, shall contain:

(1) A copy of the rule as it is proposed for adoption, amendment, or repeal and a statement of the amount of the fee to be adopted or the amount of the proposed increase or decrease.

(2) A statement of the proposed action, that is, whether the rule is proposed for adoption, amendment, or repeal; a brief summary of the content of the rule if proposed for adoption or repeal; and a brief summary of the change in the rule if proposed for amendment.

(3) The specific citation of the enabling legislation purporting to authorize the adoption, amending, or repeal of the rule or purporting to authorize the adoption, increasing, or decreasing of the fee.

(4) A statement of the circumstances which require adoption, amending, or repeal of the rule or the adoption, increasing, or decreasing of the fee.

(5) A statement of the fiscal impact of the proposed action and a statement of the economic impact of the proposed action, both approved by the Legislative Fiscal Office.

D.(1)(a) The chairman of each standing committee to which reports are submitted shall appoint an oversight subcommittee, which may conduct hearings on all rules that are proposed for adoption, amendment, or repeal and on all proposed fee adoptions, increases, or decreases. Any such hearing shall be conducted after any hearing is conducted by the agency pursuant to R.S. 49:953(A)(2).

(b) The agency shall submit a report to the subcommittee, in the same manner as the submittal of the report provided for in Subsection B of this Section, which shall include:

(i) A summary of all testimony at any hearing conducted pursuant to R.S. 49:953(A)(2).

(ii) A summary of all comments received by the agency, a copy of the agency's response to the summarized comments, and a statement of any tentative or proposed action of the agency resulting from oral or written comments received.

(iii) A revision of the proposed rule if any changes to the rule have been made since the report provided for in Subsection B of this Section was submitted, or a statement that no changes have been made.

(iv) A concise statement of the principal reasons for and against adoption of any amendments or changes suggested.

(2)(a) Except as provided in Paragraph H(2) of this Section, any subcommittee hearing on a proposed rule shall be held no earlier than five days and no later than thirty days following the day the report required by Subparagraph (1)(b) of this Subsection is received by the subcommittee.

(b) The oversight subcommittee may consist of the entire membership of the standing committee and shall consist of at least a majority of the membership of the standing committee, at the discretion of the chairman of the standing committee, with the concurrence of the speaker of the House of Representatives or the president of the Senate. House and Senate oversight subcommittees may meet jointly or separately to conduct hearings for purposes of rules review.

(3) At such hearings, the oversight subcommittees shall:

(a) Determine whether the rule change or action on fees is in conformity with the intent and scope of the enabling legislation purporting to authorize the adoption thereof.

(b) Determine whether the rule change or action on fees is in conformity and not contrary to all applicable provisions of law and of the constitution.

(c) Determine the advisability or relative merit of the rule change or action on fees.

(d) Determine whether the rule change or action on fees is acceptable or unacceptable to the oversight subcommittee.

E.(1)(a) Each such determination shall be made by the respective subcommittees of each house acting separately. Action by a subcommittee shall require the favorable vote of a majority of the members of the subcommittee who are present and voting, provided a quorum is present.

(b) No later than three weeks before the deadline for legislative oversight action, the chairman of the subcommittee may request, by letter, the consent of the subcommittee members to have a mail ballot instead of a meeting to consider a proposed rule or proposed fee action. If no objection is received within ten days of the chairman's request, the chairman shall cause a mail ballot to be sent to the members of the subcommittee. In order for the subcommittee to reject a proposed rule or proposed fee action, a majority of ballots returned to the chairman at least twenty-four hours prior to the deadline for legislative oversight action must disapprove the change. Any determination by the subcommittee shall be made within the period provided for oversight hearings in Paragraph D(2) of this Section.

(2) Failure of a subcommittee to conduct a hearing or to make a determination regarding any rule proposed for adoption, amendment, or repeal shall not affect the validity of a rule otherwise adopted in compliance with this Chapter.

F.(1) If either the House or Senate oversight subcommittee determines that a proposed rule change or proposed fee action is unacceptable, the respective subcommittee shall provide a written report which contains the following:

(a) A copy of the proposed rule or a statement of the amount of the proposed fee action.

(b) A summary of the determinations made by the subcommittee in accordance with Subsections D and E of this Section.

(2) The written report shall be delivered to the governor, the agency proposing the rule change, and the Louisiana Register no later than four days after the committee makes its determination.

G. After receipt of the report of the subcommittee, the governor shall have ten calendar days in which to disapprove the action taken by the subcommittee. If the action of the subcommittee is not disapproved by the governor within ten calendar days from the day the subcommittee report is delivered to him, the rule change shall not be adopted by the agency until it has been changed or modified and subsequently found acceptable by the subcommittee, or has been approved by the standing committee, or by the legislature by concurrent resolution. If a proposed rule change is determined to be unacceptable by an oversight committee and such determination is not disapproved by the governor as provided in this Section, the agency shall not propose a rule change or emergency rule that is the same or substantially similar to such disapproved proposed rule change nor shall the agency adopt an emergency rule that is the same or substantially similar to such disapproved proposed rule change within four months after issuance of a written report by the subcommittee as provided in Subsection F of this Section nor more than once during the interim between regular sessions of the legislature.

H.(1) If both the House and Senate oversight subcommittees fail to find a proposed rule change unacceptable as provided herein, or if the governor disapproves the action of an oversight subcommittee within the time provided in R.S. 49:968(G), the proposed rule change may be adopted by the agency in the identical form proposed by the agency or with technical changes or with changes suggested by the subcommittee, provided at least ninety days and no more than twelve months have elapsed since notice of intent was published in the State Register.

(2) Substantive changes to a rule proposed for adoption, amendment, or repeal occur if the nature of the proposed rule is altered or if such changes affect additional or different substantive matters or issues not included in the notice required by R.S. 49:953(A)(1). Whenever an agency seeks to substantively change a proposed rule after notice of intent has been published in the Louisiana Register pursuant to R.S. 49:953(A)(1), the agency shall hold a public hearing on the substantive changes preceded by an announcement of the hearing in the Louisiana Register. A notice of the hearing shall be mailed within ten days after the date the announcement is submitted to the Louisiana Register to all persons who have made request of the agency for such notice. Any hearing by the agency pursuant to this Paragraph shall be held no earlier than thirty days after the publication of the announcement in the Louisiana Register. The agency hearing shall conform to R.S. 49:953(A)(2)(b), and a report on the hearing shall be made to the oversight committees in accordance with Subparagraph D(1)(b) of this Section. The agency shall make available to interested persons a copy of such report no later than one working day following the submittal of such report to the oversight committees. Any

determination as to the rule by the oversight committees, prior to gubernatorial review as provided in Subsection G of this Section, shall be made no earlier than five days and no later than thirty days following the day the report required by this Paragraph is received from the agency.

(3) If a rule or part of a rule that is severable from a larger rule or body of rules proposed as a unit is found unacceptable, the rules or parts thereof found acceptable may be adopted by the agency in accordance with Paragraph (1) of this Subsection.

I. If the governor disapproves the action of an oversight subcommittee, he shall state written reasons for his action and shall deliver a copy of his reasons to the House and Senate oversight subcommittees, the agency proposing the rule change, and the State Register.

J. The State Register shall publish a copy of the written report of an oversight subcommittee and the written report of the governor in disapproving any such action, or if unduly cumbersome, expensive, or otherwise inexpedient, a notice stating the general subject matter of the omitted report and stating how a copy thereof may be obtained.

K. Each year, thirty days prior to the beginning of the regular session of the legislature, each agency which has proposed the adoption, amendment, or repeal of any rule or the adoption, increase, or decrease of any fee during the previous year, shall submit a report to the appropriate committees as provided for in Subsection B of this Section. This report shall contain a statement of the action taken by the agency with respect to adoption, amendment, or repeal of each rule proposed for adoption, amendment, or repeal and a report of the action taken by the agency with respect to any proposed fee adoption, increase, or decrease.

L. After submission of the report to the standing committee, a public hearing may be held by the committee for the purpose of reviewing the report with representatives of the proposing agency.

M. No later than the second legislative day of the regular session of the legislature, a standing committee to which proposed rule changes or proposed fee changes are submitted may submit a report to the legislature. This report shall contain a summary of all action taken by the committee or the oversight subcommittee with respect to agency rules and fees during the preceding twelve months. The report shall also contain any recommendations of the committee for statutory changes concerning the agency, particularly in statutes authorizing the making and promulgation of rules and fees of the agency.

N. A standing committee may, at any time, exercise the powers granted to an oversight subcommittee under the provisions of this Section.

Acts 1990, No. 312, '1; Acts 1990, No. 938, '1; Acts 1990, No. 1085, '1, eff. July 31, 1990; Acts 1991, No. 21, '2, eff. June 14, 1991; Acts 1991, No. 938, '5; Acts 1992, No. 377, '4, eff. June 17, 1992; Acts 1992, No. 447, '3, eff. June 20, 1992; Acts 1993, No. 119, '1; Acts 1993, No. 733, '1; Acts 1995, No. 1057, '1, eff. June 29, 1995 and Jan. 8, 1996 (1/8/96 date is applicable to Dept. of Health and Hospitals only); Acts 1996, 1st Ex. Sess., No. 36, '3, eff. May 7, 1996; Acts 1997, No. 1, '5, eff. April 30, 1997; Acts 1997, No. 1001, '1; Acts 1999, No. 568, '2, eff. June 30, 1999.

§969. Legislative Veto, Amendment, or Suspension of Rules, Regulations, and Fees

In addition to the procedures provided in R.S. 49:968 for review of the exercise of the rulemaking authority delegated by the legislature to state agencies, as defined by this Chapter, the legislature, by Concurrent Resolution, may suspend, amend, or repeal any rule or regulation or body of rules or regulations, or any fee or any increase, decrease, or repeal of any fee, adopted by a state department, agency, board, or commission. The Louisiana Register shall publish a brief summary of any Concurrent Resolution adopted by the legislature pursuant to this Section. Such summary shall be published not later than forty-five days after signing of such Resolution by the presiding officers of the legislature.

Added by Acts 1980, No. 660, '1. Acts 1995, No. 1109, '1, eff. Oct. 1, 1995.

§970. Gubernatorial Suspension or Veto of Rules and Regulations

The governor, by executive order, may suspend or veto any rule or regulation or body of rules or regulations adopted by a state department, agency, board or commission, except as provided in R.S. 49:967, within thirty days of their adoption. Upon the execution of such an order, the governor shall transmit copies thereof to the speaker of the House of Representatives and president of the Senate.

Added by Acts 1981, No. 453, '1.

§971. Rejection of Agency Fee Adoption, Increases, or Decreases; Prohibition Against Fee Increases and New Fees; Exceptions

A.(1) If either the House or Senate oversight subcommittees appointed pursuant to R.S. 49:968 determines that a proposed fee adoption, increase, or decrease is unacceptable, the respective subcommittee shall provide a written report containing the reasons therefor to the governor, the agency proposing the fee adoption, increase, or decrease, and the other house of the legislature. If the oversight subcommittee of the other house of the legislature likewise determines that the proposed fee adoption, increase, or decrease is unacceptable the fee action shall not be adopted by the agency.

(2) If a proposed fee adoption, increase, or decrease is found unacceptable as provided in this Section, the agency shall not propose a fee or a fee change or an emergency fee or an emergency fee change that is the same or substantially similar to the disapproved fee action nor shall the agency adopt an emergency fee or fee change that is the same or substantially similar to the disapproved fee action within four months after issuance of the subcommittee report nor more than once during the interim between regular sessions of the legislature.

(3) However, no state agency which has the authority to impose or assess fees shall increase any existing fee or impose any new fee unless the fee increase or fee adoption is expressly authorized pursuant to a fee schedule established

by statute or specifically authorized by a federal law, rules, or regulations for the purpose of satisfying an express mandate of such federal law, rule, or regulation. No state agency shall adjust, modify or change the formula for any authorized fee in a manner that would increase the fee paid by any person by more than five percent of the relevant fee paid by such person in the previous fiscal year. Proposed fee increases of less than five percent shall be subject to oversight as required by R.S. 49:968.

(4)(a) The provisions of Paragraph (3) of this Subsection shall not apply to any department which is constitutionally created and headed by an officer who is duly elected by a majority vote of the electorate of the state.

(b) The provisions of Paragraph (3) of this Subsection shall not apply to any state professional and occupational licensing boards.

B. Action by a subcommittee shall require the favorable vote of a majority of the members of the subcommittee who are present and voting, provided a quorum is present.

Acts 1987, No. 240, '1; Acts 1995, No. 1005, '1, eff. Aug. 15, 1995; Acts 1995, No. 1057, '1, eff. June 29, 1995, and Jan. 8, 1996 (1/8/96 date is applicable to Dept. of Health and Hospitals only).

§972. Family Impact Statement; Issues to be Considered; Procedure; Penalty

A. Prior to the adoption and implementation of rules, each state agency shall consider and state in writing the impact of such rules on family formation, stability, and autonomy. This written consideration shall be known as the "family impact statement".

B. The family impact statement will consider and respond in writing to the following regarding the proposed rule:

- (1) The 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.
- (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.

C. All family impact statements must be in writing and kept on file in the state agency which has adopted, amended, or repealed a rule in accordance with the applicable provisions of law relating to public records.

D. For the purposes of this Section, "family" shall mean a group of individuals related by blood, marriage, or adoption who live together as a single household.

Acts 1999, No. 1183, '1.

0001#111

Potpourri

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Landscape Architect Registration Exam

The next landscape architect registration examination will be given June 12-14, 2000 beginning at 7:45 a.m. at the College of Design Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending the application and fee is as follows:

New Candidates: February 25, 2000

Re-Take Candidates: March 10, 2000

Reciprocity Candidates: May 5, 2000

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3596, Baton Rouge, LA 70821-3596, phone (225) 925-7772.

Any individual requesting special accommodations due to a disability should notify the office prior to February 25, 2000. Questions may be directed to (225) 925-7772.

Bob Odom
Commissioner

0002#004

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Retail Floristry Examination

The next retail floristry examinations will be given May 1-5, at 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 March 17, 2000. No applications will be accepted after March 17, 2000.

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3596, Baton Rouge, LA 70821-3596, phone (225) 925-7772.

Any individual requesting special accommodations due to a disability should notify the office prior to March 17, 2000. Questions may be directed to (225) 925-7772.

Bob Odom
Commissioner

0002#032

POTPOURRI

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Extension of Comment Period for RECAP Revisions (OS034)

The Notice of Intent to revise the Risk Evaluation/Corrective Action Program (RECAP) document and to amend the Office of the Secretary regulations, LAC 33:I.1305 and 1307, and the Solid Waste regulations, LAC 33:VII.305 (Log #OS034) was published on pages 2557-2558 of the December 20, 1999, *Louisiana Register*. The deadline for receiving comments was stated as January 31, 2000. This deadline has been extended to February 29, 2000. A public hearing was held on January 24, 2000. The new deadline for comments will allow additional time for interested persons to comment on the proposed changes.

This proposed rule clarifies the Office of the Secretary and the Solid Waste regulations to reflect the department's intent, and will adopt by reference the Risk Evaluation/Corrective Action Program (RECAP) document that is being revised as part of this rulemaking package. The RECAP revisions will provide clarification and corrections to text, tables, and figures of the RECAP document. Clarifications of text will enhance the reader's understanding of the content of the document. Correction to errors in the document and movement of text will improve the RECAP document readability and help the regulated community understand the document. For a more detailed summary of the changes, please see the original Notice of Intent.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by OS034. Such comments must be received no later than February 29, 2000, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178, or faxed to (225) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of OS034.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100

Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394, or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

0002#109

POTPOURRI

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

Revision to the Beauregard Parish Redesignation Plan

Under the authority of the Environmental Quality Act, R.S. 30:1051, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that a revision to the State Implementation Plan (SIP) has been initiated. The Contingency Plan is being revised to identify that the triggering event that will cause the implementation of a contingency measure will be an actual monitored ozone violation of the NAAQS as defined in 40 CFR 50.9 and determined not to be attributable to transport.

The public comment period begins on February 20, 2000, and ends at 4:30 p.m. on April 3, 2000. A public hearing will be held at 1:30 p.m., March 27, 2000, on the second floor of the Trotter Building, 7290 Bluebonnet, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed SIP. Should individuals with a disability need an accommodation in order to participate, contact Annette Sharp at the address or phone number given below. Written comments may also be submitted at the time of the public hearing or sent to Ms. Annette Sharp, Environmental Planning Division, Box 82178, Baton Rouge, LA 70884-2178. Receipt of written comments must be no later than 4:30 p.m. on April 3, 2000. For other details, you may call Ms. Sharp at (225) 765-0244.

A copy of the SIP may be viewed at the Environmental Planning Division from 8 a.m. until 4:30 p.m., Monday through Friday (excluding holidays) at either 7290 Bluebonnet, Fifth Floor, Baton Rouge, LA, or at the Southwest Regional Office located at 3519 Patrick Street, Suite 265, Lake Charles, LA.

James H. Brent, Ph.D.
Assistant Secretary

0002#104

POTPOURRI

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

Revision to the Grant Parish Redesignation Plan

Under the authority of the Environmental Quality Act, R.S. 30:1051, et seq., and in accordance with the provisions

of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that a revision to the State Implementation Plan (SIP) has been initiated. The Contingency Plan is being revised to identify that the triggering event that will cause the implementation of a contingency measure will be an actual monitored ozone violation of the NAAQS as defined in 40 CFR 50.9 and determined not to be attributable to transport.

The public comment period begins on February 20, 2000, and ends at 4:30 p.m. on April 3, 2000. A public hearing will be held at 1:30 p.m., March 27, 2000, on the second floor of the Trotter Building, 7290 Bluebonnet, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed SIP. Should individuals with a disability need an accommodation in order to participate, contact Annette Sharp at the address or phone number given below. Written comments may also be submitted at the time of the public hearing or sent to Ms. Annette Sharp, Environmental Planning Division, Box 82178, Baton Rouge, LA 70884-2178. Receipt of written comments must be no later than 4:30 p.m. on April 3, 2000. For other details, you may call Ms. Sharp at (225) 765-0244.

A copy of the SIP may be viewed at the Environmental Planning Division from 8 a.m. until 4:30 p.m., Monday through Friday (excluding holidays) at either 7290 Bluebonnet, Fifth Floor, Baton Rouge, LA, or at the Northeast Regional Office located at 804 North Thirty-first Street, Suite D, Monroe, LA.

James H. Brent, Ph.D.
Assistant Secretary

0002#105

POTPOURRI

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

Revision to the Lafayette Parish Redesignation Plan

Under the authority of the Environmental Quality Act, R.S. 30:1051, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that a revision to the State Implementation Plan (SIP) has been initiated. The Contingency Plan is being revised to identify that the triggering event that will cause the implementation of a contingency measure will be an actual monitored ozone violation of the NAAQS as defined in 40 CFR 50.9 and determined not to be attributable to transport.

The public comment period begins on February 20, 2000, and ends at 4:30 p.m. on April 3, 2000. A public hearing will be held at 1:30 p.m., March 27, 2000, on the second floor of the Trotter Building, 7290 Bluebonnet, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed SIP. Should individuals with a disability need an accommodation in order to participate, contact Annette Sharp at the address or phone number given below. Written comments may also be submitted at the time of the public hearing or sent to Ms. Annette Sharp, Environmental Planning Division, Box 82178, Baton Rouge,

LA 70884-2178. Receipt of written comments must be no later than 4:30 p.m. on April 3, 2000. For other details, you may call Ms. Sharp at (225) 765-0244.

A copy of the SIP may be viewed at the Environmental Planning Division from 8 a.m. until 4:30 p.m., Monday through Friday (excluding holidays) at either 7290 Bluebonnet, Fifth Floor, Baton Rouge, LA, or at the Acadiana Regional Office located at 100 Asma Boulevard, Suite 151, Lafayette, LA.

James H. Brent, Ph.D.
Assistant Secretary

0002#106

POTPOURRI

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

Revision to the Orleans Consolidated Metropolitan Statistical Area (CMSA) Redesignation Plan

Under the authority of the Environmental Quality Act, R.S. 30:1051, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that a revision to the State Implementation Plan (SIP) has been initiated. The Contingency Plan is being revised to identify that the triggering event that will cause the implementation of a contingency measure will be an actual monitored ozone violation of the NAAQS as defined in 40 CFR 50.9 and determined not to be attributable to transport.

The public comment period begins on February 20, 2000, and ends at 4:30 p.m. on April 3, 2000. A public hearing will be held at 1:30 p.m., March 27, 2000, on the second floor of the Trotter Building, 7290 Bluebonnet, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed SIP. Should individuals with a disability need an accommodation in order to participate, contact Annette Sharp at the address or phone number given below. Written comments may also be submitted at the time of the public hearing or sent to Ms. Annette Sharp, Environmental Planning Division, Box 82178, Baton Rouge, LA 70884-2178. Receipt of written comments must be no later than 4:30 p.m. on April 3, 2000. For other details, you may call Ms. Sharp at (225) 765-0244.

A copy of the SIP may be viewed at the Environmental Planning Division from 8 a.m. until 4:30 p.m., Monday through Friday (excluding holidays) at either 7290 Bluebonnet, Fifth Floor, Baton Rouge, LA, or at the Southeast Regional Office located at 3501 Chateau Boulevard, West Wing, Kenner, LA.

James H. Brent, Ph.D.
Assistant Secretary

0002#107

POTPOURRI

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

Revision to the St. Mary Parish Redesignation Plan

Under the authority of the Environmental Quality Act, R.S. 30:1051, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that a revision to the State Implementation Plan (SIP) has been initiated. The Contingency Plan is being revised to identify that the triggering event that will cause the implementation of a contingency measure will be an actual monitored ozone violation of the NAAQS as defined in 40 CFR 50.9 and determined not to be attributable to transport.

The public comment period begins on February 20, 2000, and ends at 4:30 p.m. on April 3, 2000. A public hearing will be held at 1:30 p.m., March 27, 2000, on the second floor of the Trotter Building, 7290 Bluebonnet, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed SIP. Should individuals with a disability need an accommodation in order to participate, contact Annette Sharp at the address or phone number given below. Written comments may also be submitted at the time of the public hearing or sent to Ms. Annette Sharp, Environmental Planning Division, Box 82178, Baton Rouge, LA 70884-2178. Receipt of written comments must be no later than 4:30 p.m. on April 3, 2000. For other details, you may call Ms. Sharp at (225) 765-0244.

A copy of the SIP may be viewed at the Environmental Planning Division from 8 a.m. until 4:30 p.m., Monday through Friday (excluding holidays) at either 7290 Bluebonnet, Fifth Floor, Baton Rouge, LA, or at the Acadiana Regional Office located at 100 Asma Boulevard, Suite 151, Lafayette, LA.

James H. Brent, Ph.D.
Assistant Secretary

0002#108

POTPOURRI

Department of Health and Hospitals Office of Public Health Health Committee of the Louisiana Oyster Task Force

Official Posting Sites Update for Molluscan Shellfish Growing Areas

The Department of Health and Hospitals is responsible for maintaining a current classification of all actual or potential molluscan shellfish growing waters with respect to their suitability for harvest. Classification of these molluscan shellfish growing waters are in accord with the guidelines of

the National Shellfish Sanitation Program. The system of individual harvester notification used in the mid 1980's was replaced with a system of public viewing sites which were selected because of site location, frequency of visits, and the willingness of the site owner to post large maps on the wall. The location of these "Official Posting Sites" was published in the *Louisiana Register* in July, 1987. This system of posting sites allows for the viewing of large scale maps with latitude and longitude noted for key areas. This program element also allows for a public forum for public discussion prior to the lines of growing area classification becoming official. In addition, the harvesters are reminded annually of such a system by receiving a pamphlet (mandated by the National Shellfish Sanitation Program). These lines of classifications denote open, closed, and conditionally managed harvest areas. Harvest area classifications are depicted statewide by lines on maps distributed to the following posting sites. It is the responsibility of each person harvesting oysters to check for the latest information on the classification of shellfish growing areas prior to conducting any harvest activity. Enforcement of the classification lines is the responsibility of the Enforcement Division, Department of Wildlife and Fisheries.

The updated listing of official posting sites reads as follows:

La. State Marine Extension Service
8201 W. Judge Perez Dr.
Chalmette, LA 70043

St. Bernard Parish Health Unit
2712 Palmisano Blvd.
Chalmette, LA 70043

PIP's Place
RT. 2 Box 610
St. Bernard, LA 70085

Campo's Marina
RT. 1 Box 876
Delacroix, LA 70085

La. Dept. of Wildlife and Fisheries
Office of Marine Fisheries
Coastal Study Area 1
52282 U.S. Highway 90
Slidell, LA 70461

Plaquemines Parish Health Department
3706 Main St.
Belle Chasse, LA 70037

Plaquemines Parish Courthouse
District Attorney Office
P.O. Box 61
Point A La Hache, LA 70082

La. State Marine Extension Service
70163 Hwy. 39, Suite 201
Braithwaite, LA 70040

La. Dept. of Wildlife and Fisheries
Enforcement Division
P.O. Box 98000
Baton Rouge, LA 70898-9000

Orleans Parish Health Department
Tidewater Place
1440 Canal Street
Suite 1700
New Orleans, LA 70112

La. Cooperative Extension Service
1855 Ames Blvd.
Marrero, LA 70072

Jefferson Parish Health Unit
111 North Causeway Blvd.
Metairie, LA 70001

La. Dept of Wildlife and Fisheries
New Iberia Field Office
2415 Darnall Rd.
New Iberia, LA 70560

La. Dept of Wildlife and Fisheries
Lake Charles District
1213 North Lakeshore Dr.
Lake Charles, LA 70601

La. State Marine Extension Service
Lafourche Port Commission Office
5415 Main St.
Galliano, LA 70354

Lafourche Parish Health Unit
2535 Veterans Blvd.
Thibodaux, LA 70301

Lockport Civic Complex
Town Hall
710 Church Street
Lockport, LA 70374

La. Dept of Wildlife and Fisheries
Bourg Field Office
P.O. Box 189
Bourg, LA 70343

La. State Cooperative Extension Service
511 Roussell
Houma, LA 70360

Wilson's Oysters, Inc.
1981 South Van Ave
Houma, LA 70363

Motivated Seafood
P.O. Box 3916
Houma, LA 70361

Terrebonne Parish Health Unit
600 Polk St.
Houma, LA 70360

Morgan City Mayor's Office
Town Hall
P.O. Box 1218
Morgan City, LA 70381

Delacroix Island Fire Station
Engine # 9 C/O Fire Chief
8201 W. Judge Perez Dr.
Chalmette, LA 70043

Frank Campo's Marina
RT. 1 Box 674
Shell Beach, LA 70085

Dudenhefer's
4618 Hopedale
St. Bernard, LA 70085

Delta Marina
P.O. Box 445
Empire, LA 70050

Eddie's Oyster House
Box 301
Port Sulphur, LA 70083

Happy Jack Marina
RT. 1 Box 5
Port Sulphur, LA 70083

Beshel's Marina
Box 100
Point A La Hache, LA 70082

Cheremie's Marina
Box 639
Grand Isle, LA 70358

Collins' Seafood
P.O. Box 117
Grand Isle, LA 70358

Shamrock Seafood
4328 Hwy. 1
Raceland, LA 70394

La. Dept. Of Environmental Quality
Bayou Lafourche Regional Office
104 Locaco Dr., Suite 2
Raceland, LA 70394

Dularge Sporting Goods
P.O. Box 3855
Houma, LA 70360

Marie's Fisheries

208 Howard Ave.
Houma, LA 70360

Dularge Volunteer Fire Dept.
Box 92-F Falgout Canal Rd.
Theriot, LA 70397

Dulac Volunteer Fire Dept
5270 Grand Caillou Rd., Hwy. 57
Houma, LA 70363

Terrebonne Parish Courthouse
District Attorney Office
400 East Main St.
Houma, LA 70360

Iberia Parish Health Unit
Courthouse Annex
121 West Pershing St
New Iberia, LA 70560

Calcasieu Parish Health Unit
P.O. Box 3169
Lake Charles, LA 70602

St. Mary Parish Health Unit
1113 Weber St.
Franklin, LA 70538

Vermilion Parish Health Unit
401 South St. Charles Street
Abbeville, LA 70510

Office of Public Health
Molluscan Shellfish Program
210 State Street
New Orleans, LA 70118

Office of Public Health
Molluscan Shellfish Program
6867 Blue Bonnet Blvd.
Baton Rouge, LA 70810

La. Dept of Wildlife and Fisheries
Point Au Chein Management
1197 Highway 665
Montegut, LA, 70377

Madison Seafood Co.
Box 266
Montegut, LA 70377

U.S. Food and Drug Administration
Attn. Seafood Specialist
5353 Essen Lane
Baton Rouge, LA 70809

St. Bernard Sheriff's Office
P.O. Box 168
Chalmette, LA 70044

Plaquemines Parish Sheriff's Office
P. O. Box 86
Point A La Hache, LA 70082

Empire Shipyard
284 Rose Marie Dr.
Empire, LA 70050

Point A Chen Supermarket
638 Hwy. 665
Montegut, LA 70377

State of Mississippi
Dept. of Wildlife and Fisheries
2620 Beach Blvd.
Biloxi, MS 39551

State of Mississippi
Dept. of Wildlife and Fisheries
1141 Bayview Ave. #101
Biloxi, MS 39530-1601

U.S. Department of Agriculture
Services Agency
429 Airline Hwy., Suite K
Laplace, LA 70068

Cameron Parish Health Unit
107 Recreation Center Lane
P. O. Box 1430
Cameron, LA 70631

Plaquemines Parish Water Quality Laboratory
138 Edna Lafrance Road
Braithwaite, LA 70040

La. Dept of Wildlife and Fisheries
Seafood Division
1600 Canal Street
New Orleans, LA 70112

David W. Hood
Secretary

0002#088

POTPOURRI

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

Notice of Hearing

The Department of Health and Hospitals, Office of Public Health, will hold another public hearing to receive input from the public on the Louisiana Preventive Health and Health Services Block Grant as administered annually by the agency. The scheduled public hearing will take place on February 29, 2000 beginning at 9:00 a.m. in Room 511 at

325 Loyola Avenue, New Orleans, LA. Copies of the grant may be obtained from Larry Fox, Division of Health Protection and Promotion, Office of Public Health, 325 Loyola Avenue, New Orleans, LA. You may also contact Mr. Fox by telephone at (504) 680 - 9463 for additional information.

David W. Hood
Secretary

0002#096

POTPOURRI

**Department of Insurance
Office of the Commissioner**

Second Public Hearing of Regulation 70 Replacement of Life Insurance and Annuities (LAC 37:XIII.Chapter 89)

**Title 37
INSURANCE**

Part XIII. Regulations

Chapter 89. Regulation 70—Replacement of Life Insurance and Annuities

NOTE: The text of this proposed rule may be viewed in its entirety in the December 1999 edition of the *Louisiana Register*.

The Department of Insurance held the first public hearing on January 26, 2000, as indicated in its Notice of Intent published on page 2581 of the December 1999 *Louisiana Register*. The Department received commentary, oral and written, supporting the incorporation of language provided by the American Counsel of Life Insurance (ACLI). A second hearing is scheduled for March 24, 2000, 10 a.m., and will be held in the Plaza Hearing Room at the Department of Insurance located at 950 N. 5th Street, Baton Rouge, LA 70802. This will allow the public an opportunity to express their views concerning the proposed ACLI changes.

Interested persons may submit oral or written comments to Barry E. Ward, Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, (225) 219-4750. Comments will be accepted through the close of business at 4:30 p.m. on March 24, 2000.

James H. "Jim" Brown
Commissioner

0002#089

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, La. R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	Well Name	Well Number	Serial Number
The Cornell Corporation	Anse La Butte	A Voorhies A	1-D	062211
The Cornell Corporation	Anse La Butte	A Voorhies A	001	060591
Damson Exploration Corporation	Wildcat	Lucile S James	001	125875
W. A. Lusk	West Delhi	Arthur Thomas	001	181329
W. A. Lusk	Buckhorn	MASS SU 178; Fisher Lbr Corp	B4	084213
W. A. Lusk	Buckhorn	MASS SU 176; Fisher Lbr Corp	B6	094159
W. A. Lusk	Holly Ridge	Penrod-Jurden SWD	005	141537
W. A. Lusk	Holly Ridge	BL TUSC RB SUB; Penrod-Jurden B	001	139101
W. A. Lusk	Delhi	Gilliland	001	166606
W. A. Lusk	Delhi	Chandler	002	180840
W. A. Lusk	Delhi	Gilliland	002	183560
W. A. Lusk	Delhi	Munholland	001	187417
W. A. Lusk	Delhi	Wilks	001	203923
W. A. Lusk	West Delhi	Arthur Thomas	001	181329
R. A. Nobile	Wildcat	A B Learned et al B	001	170838
O'Hara Petroleum Exploration Company	Bellevue	Wickett	005	157409
Power Reserves, Inc.	Big Lake	LD RA SUG; C J Manning	002	069300
Mr. Sam Sklar	Tullos Urania	Louis Tullos	005	039648
Tiger E & P, Inc.	Wildcat	Land-Gordon Heirs et al	001	222735
Trident Production, L.L.C.	Alabama Bend	Odie Waites	003	106883
Trident Production, L.L.C.	Alabama Bend	Gilbert	001	046600
Trident Production, L.L.C.	Alabama Bend	Green	002	094183
Trident Production, L.L.C.	Alabama Bend	Green	003	125798
Trident Production, L.L.C.	Dixie	Adger	002	175835
Trident Production, L.L.C.	Dixie	Adger	004	176822
Trident Production, L.L.C.	Dixie	Adger	012	175366
Trident Production, L.L.C.	Dixie	Adger	015	176881
Trident Production, L.L.C.	Dixie	Adger	017	176905
Trident Production,	Dixie	Adger	003	176801

L.L.C.				
Trident Production, L.L.C.	Dixie	Adger	009	178570
Trident Production, L.L.C.	Dixie	Adger	013	176904
Trident Production, L.L.C.	Dixie	Adger	016	176882
Trident Production, L.L.C.	Dixie	Adger	019	191665
Trident Production, L.L.C.	Dixie	Adger	020	199952
Trident Production, L.L.C.	Dixie	Adger	021	200181
Trident Production, L.L.C.	Dixie	Adger	022	201298
Trident Production, L.L.C.	Dixie	Adger	023	206778
Trident Production, L.L.C.	Dixie	Adger	018	190972
Trident Production, L.L.C.	Caddo Pine Island	Caddo Levee Board C	001	202604
Trident Production, L.L.C.	Caddo Pine Island	Caddo Levee Board B	002	203941
Trident Production, L.L.C.	Caddo Pine Island	Huckabay et al	002	200600
Trident Production, L.L.C.	Longwood	Mitchell Williams A	001	182767
Trident Production, L.L.C.	Longwood	Mitchell Williams A	002	182768
Trident Production, L.L.C.	Longwood	Mitchell Williams A	003	182769
Trident Production, L.L.C.	Longwood	Mitchell Williams A	004	182770
Trident Production, L.L.C.	Longwood	Mitchell Williams A	005	182771
Trident Production, L.L.C.	Caddo Pine Island	PXY RB SUC; H H Tyson	001	187967
Trident Production, L.L.C.	Caddo Pine Island	PXY RB SUA; Lee Johnson Est A	001	187163
Trident Production, L.L.C.	Caddo Pine Island	PXY RB SUA; L Johnson Estate A	003	188281
Trident Production, L.L.C.	Caddo Pine Island	PXY RB SUD; Gilliam et al	001	188882
Trident Production, L.L.C.	Caddo Pine island	Levy	001	017446
Trident Production, L.L.C.	Caddo Pine Island	Levy	002	017586
Trident Production, L.L.C.	Caddo Pine Island	Levy	003	017824
Trident	Caddo Pine	Levy	004	018216

POTPOURRI

**Department of Social Services
Office of Community Services**

2000 Louisiana Emergency Shelter Grants Program

The Department of Social Services (DSS) anticipates the availability of \$1,541,446 in grant funds for distribution to applicant units of local government under the 2000 state Emergency Shelter Grants Program (ESGP). Program funds are allocated to the state by the U.S. Department of Housing and Urban Development (HUD) through authorization by the Stewart B. McKinney Homeless Assistance Act, as amended. Funding available under the Emergency Shelter Grants Program is dedicated for the rehabilitation, renovation or conversion of buildings for use as emergency shelters for the homeless, and for payment of certain operating costs and social services expenses in connection with emergency shelter for the homeless. The program also allows use of funding in homeless prevention activities as an adjunct to other eligible activities. As specified under current state ESGP policies, eligible applicants are limited to units of general local government for all parish jurisdictions and those municipal or city governmental units for jurisdictions with a minimum population of 10,000 according to recent census figures. Recipient units of local government may make all or part of grant amounts available to private nonprofit organizations for use in eligible activities.

Application packages for the state ESG Program shall be issued by mail to the chief elected official of each qualifying unit of general local government. The application package can be viewed on the Internet at the following website: <http://www.dss.state.la.us/html/rfps.html>. In order to be considered for funding, **applications must be received by DSS/Office of Community Services by 4:00 p.m., Friday, April 7, 2000.**

Nonprofit organizations in qualifying jurisdictions which are interested in developing a project proposal for inclusion in an ESGP funding application should contact their respective unit of local government to advise of their interest. To be eligible for funding participation, a private nonprofit organization as defined by ESGP regulations must be one which:

1. is exempt from taxation under Subtitle A of the Internal Revenue Code;
2. has an accounting system and a voluntary board; and
3. practices nondiscrimination in the provision of assistance.

The state DSS will continue use of a geographic allocation formula in the distribution of the state's ESG funding to ensure that each region of the state is allotted a specified minimum of state ESG grant assistance for eligible ESGP projects. Regional allocations for the state's 2000 ESG program have been formulated based on factors for low income populations in the parishes of each region according to U.S. Census Bureau data. Within each region, grant distribution shall be conducted through a competitive grant award process.

The following table lists the allocation factors and amounts for each region:

Production, L.L.C.				
Trident Production, L.L.C.	Caddo Pine Island	Resweber	001	023510
Trident Production, L.L.C.	Caddo Pine Island	Goodwill Fee	001	023513
Trident Production, L.L.C.	Caddo Pine Island	Harry E Hill	001	033264
Trident Production, L.L.C.	Caddo Pine Island	Oil City Land	001	035627
Trident Production, L.L.C.	Caddo Pine Island	Oil City Land	003	036757
Trident Production, L.L.C.	Caddo Pine Island	Hardy	001	047334
Trident Production, L.L.C.	Caddo Pine Island	Oil City Land	004	054870
Trident Production, L.L.C.	Caddo Pine Island	Watts	001	060846
Trident Production, L.L.C.	Caddo Pine Island	Mathieu B	001	066881
Trident Production, L.L.C.	Caddo Pine Island	Hardy	002	147508
Trident Production, L.L.C.	Caddo Pine Island	Lynn B	001	168927
Trident Production, L.L.C.	Caddo Pine Island	Lynn B	002	174265
Trident Production, L.L.C.	Caddo Pine Island	Etchison	003	990289
Trident Production, L.L.C.	Dixie	Adger	006	053091
Trident Production, L.L.C.	Dixie	Adger	007	053360
Trident Production, L.L.C.	Dixie	Adger	024	056016
Trident Production, L.L.C.	Dixie	Adger	025	056534
Trident Production, L.L.C.	Dixie	Adger	026	109280
Trident Production, L.L.C.	Dixie	Adger	001	175834
Trident Production, L.L.C.	Dixie	Adger	014	176880
Trident Production, L.L.C.	Dixie	Adger	005	177462
Trident Production, L.L.C.	Dixie	Adger	010	188915
Trident Production, L.L.C.	Dixie	Adger	027	217450

Philip N. Asprodites
Commissioner

Region	Factor	Allocation
Region I New Orleans	.1572303	242,362
Region II Baton Rouge	.1120504	172,720
Region III Thibodaux	.0698830	107,721
Region IV Lafayette	.1522065	234,618
Region V Lake Charles	.0531705	81,959
Region VI Alexandria	.0764176	117,794
Region VII Shreveport	.1248105	192,389
Region VIII Monroe	.0985996	151,986
Region IX Northshore	.0746534	115,074
Region X Jefferson	.0809781	124,823

Regional funding amounts for which applications are not received shall be subject to statewide competitive award to applicants from other regions and/or shall be reallocated among other regions in accordance with formulations consistent with the above factors.

Grant awards shall be for a minimum of \$10,000. Applicable grant maximums are as follows.

1. Individual grant awards to applicant jurisdictions of less than 49,000 population shall not exceed \$50,000.

2. For a jurisdiction of over 49,000 population, the maximum grant award shall not exceed the ESGP allocation for that jurisdiction's respective region.

Grant specifications, minimum and maximum awards may be revised at DSS's discretion in consideration of individual applicant's needs, total program funding requests, and available funding. DSS reserves the right to negotiate the final grant amounts, component projects, and local match with all applicants to ensure judicious use of program funds.

Program applications must meet state ESGP requirements and must demonstrate the means to assure compliance if the proposal is selected for funding. If, in the determination of DSS, an application fails to meet program purposes and standards, even if such application is the only eligible proposal submitted from a region or subregion, such application may be rejected *in toto*, or the proposed project(s) may be subject to alterations as deemed necessary by DSS to meet appropriate program standards.

Proposals accepted for review will be rated on a comparative basis based on information provided in grant applications. Award of grant amounts between competing applicants and/or proposed projects will be based upon the following selection criteria:

Nature and extent of unmet need for emergency shelter, transitional housing and supportive services in the applicant's jurisdiction.	40 points
The extent to which proposed activities will address needs for shelter and assistance and/or complete the development of a comprehensive system of services which will provide a continuum of care to assist homeless persons to achieve independent living.	30 points
The ability of the applicant to carry out the proposed activities promptly.	15 points
Coordination of the proposed project(s) with available community resources, so as to be able to match the needs of homeless persons with appropriate supportive services and assistance.	15 points

ESGP recipients are required to provide matching funds (including in-kind contributions) in an amount at least equal to its ESGP funding unless a jurisdiction has been granted an

exemption in accordance with program provisions. The value of donated materials and buildings, voluntary activities and other in-kind contributions may be included with "hard cash" amounts in the calculation of matching funds. A local government grantee may comply with this requirement by providing the matching funds itself, or through provision by nonprofit recipients.

A recipient local government may at its option elect to use up to 2.439 percent of grant funding for costs directly related to administering grant assistance, or may allocate all grant amounts for eligible program activities. Program rules do not allow the use of ESGP funds for administrative costs of nonprofit subgrantees.

Availability of ESGP funding is subject to HUD's approval of the state's FY 2000 Consolidated Annual Action Plan for Housing and Community Development Programs. No expenditure authority or funding obligations shall be implied based on the information in this notice of funds availability.

Inquiries and comments regarding the 2000 Louisiana Emergency Shelter Grants Program may be submitted in writing to the Office of Community Services, Management and Finance Division, Box 3318, Baton Rouge, LA 70821, or telephone (225) 342-6640.

J. Renea Austin-Duffin
Secretary

0002#103

POTPOURRI

Department of Social Services Office of Community Services

2000-2001 Weatherization Assistance Program Public Hearing

The Department of Social Services, Office of Community Services is submitting a State Plan to the U.S. Department of Energy (DOE) for funding of the 2000-2001 Weatherization Assistance Program. Pursuant to federal regulations (10 CFR 440), a public hearing is required prior to DOE's approval of the plan.

The Weatherization Assistance Program provides services to low-income households, and in particular, households in which elderly, handicapped and/or children reside. The purposes of weatherization activities are:

1. to reduce home heating and cooling costs of low income households;
2. to provide a more comfortable and safe home environment for low-income residents; and
3. to help reduce the consumption of fossil fuels.

The public hearing is scheduled for Thursday, March 9, 2000, at 1:30 P.M. in Baton Rouge, LA, at 333 Laurel Street, Room 652 (sixth floor training room). Louisiana's grant for the 2000-2001 program year is \$1,026,468. Any additional Department of Energy funds which may become available during the 2000-2001 program year will be expended according to the approved state plan.

Copies of the plan can be obtained prior to the hearing by contacting the Department of Social Services, Office of

Community Services, Energy Assistance Section at (225) 342-2288 or by writing to P.O. Box 3318, Baton Rouge, LA 70821. Written comments will be accepted through March 17, 2000.

0002#102

J. Renea Austin-Duffin
Secretary

Potpourri

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Landscape Architect Registration Exam

The next landscape architect registration examination will be given June 12-14, 2000 beginning at 7:45 a.m. at the College of Design Building, Louisiana State University Campus, Baton Rouge, LA. The deadline for sending the application and fee is as follows:

New Candidates: February 25, 2000

Re-Take Candidates: March 10, 2000

Reciprocity Candidates: May 5, 2000

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3596, Baton Rouge, LA 70821-3596, phone (225) 925-7772.

Any individual requesting special accommodations due to a disability should notify the office prior to February 25, 2000. Questions may be directed to (225) 925-7772.

Bob Odom
Commissioner

0002#004

POTPOURRI

Department of Agriculture and Forestry Horticulture Commission

Retail Floristry Examination

The next retail floristry examinations will be given May 1-5, at 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 March 17, 2000. No applications will be accepted after March 17, 2000.

Further information pertaining to the examinations may be obtained from Craig Roussel, Director, Horticulture Commission, Box 3596, Baton Rouge, LA 70821-3596, phone (225) 925-7772.

Any individual requesting special accommodations due to a disability should notify the office prior to March 17, 2000. Questions may be directed to (225) 925-7772.

Bob Odom
Commissioner

0002#032

POTPOURRI

Department of Environmental Quality Office of Environmental Assessment Environmental Planning Division

Extension of Comment Period for RECAP Revisions (OS034)

The Notice of Intent to revise the Risk Evaluation/Corrective Action Program (RECAP) document and to amend the Office of the Secretary regulations, LAC 33:I.1305 and 1307, and the Solid Waste regulations, LAC 33:VII.305 (Log #OS034) was published on pages 2557-2558 of the December 20, 1999, *Louisiana Register*. The deadline for receiving comments was stated as January 31, 2000. This deadline has been extended to February 29, 2000. A public hearing was held on January 24, 2000. The new deadline for comments will allow additional time for interested persons to comment on the proposed changes.

This proposed rule clarifies the Office of the Secretary and the Solid Waste regulations to reflect the department's intent, and will adopt by reference the Risk Evaluation/Corrective Action Program (RECAP) document that is being revised as part of this rulemaking package. The RECAP revisions will provide clarification and corrections to text, tables, and figures of the RECAP document. Clarifications of text will enhance the reader's understanding of the content of the document. Correction to errors in the document and movement of text will improve the RECAP document readability and help the regulated community understand the document. For a more detailed summary of the changes, please see the original Notice of Intent.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by OS034. Such comments must be received no later than February 29, 2000, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178, or faxed to (225) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of OS034.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100

Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394, or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

0002#109

POTPOURRI

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

Revision to the Beauregard Parish Redesignation Plan

Under the authority of the Environmental Quality Act, R.S. 30:1051, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that a revision to the State Implementation Plan (SIP) has been initiated. The Contingency Plan is being revised to identify that the triggering event that will cause the implementation of a contingency measure will be an actual monitored ozone violation of the NAAQS as defined in 40 CFR 50.9 and determined not to be attributable to transport.

The public comment period begins on February 20, 2000, and ends at 4:30 p.m. on April 3, 2000. A public hearing will be held at 1:30 p.m., March 27, 2000, on the second floor of the Trotter Building, 7290 Bluebonnet, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed SIP. Should individuals with a disability need an accommodation in order to participate, contact Annette Sharp at the address or phone number given below. Written comments may also be submitted at the time of the public hearing or sent to Ms. Annette Sharp, Environmental Planning Division, Box 82178, Baton Rouge, LA 70884-2178. Receipt of written comments must be no later than 4:30 p.m. on April 3, 2000. For other details, you may call Ms. Sharp at (225) 765-0244.

A copy of the SIP may be viewed at the Environmental Planning Division from 8 a.m. until 4:30 p.m., Monday through Friday (excluding holidays) at either 7290 Bluebonnet, Fifth Floor, Baton Rouge, LA, or at the Southwest Regional Office located at 3519 Patrick Street, Suite 265, Lake Charles, LA.

James H. Brent, Ph.D.
Assistant Secretary

0002#104

POTPOURRI

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

Revision to the Grant Parish Redesignation Plan

Under the authority of the Environmental Quality Act, R.S. 30:1051, et seq., and in accordance with the provisions

of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that a revision to the State Implementation Plan (SIP) has been initiated. The Contingency Plan is being revised to identify that the triggering event that will cause the implementation of a contingency measure will be an actual monitored ozone violation of the NAAQS as defined in 40 CFR 50.9 and determined not to be attributable to transport.

The public comment period begins on February 20, 2000, and ends at 4:30 p.m. on April 3, 2000. A public hearing will be held at 1:30 p.m., March 27, 2000, on the second floor of the Trotter Building, 7290 Bluebonnet, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed SIP. Should individuals with a disability need an accommodation in order to participate, contact Annette Sharp at the address or phone number given below. Written comments may also be submitted at the time of the public hearing or sent to Ms. Annette Sharp, Environmental Planning Division, Box 82178, Baton Rouge, LA 70884-2178. Receipt of written comments must be no later than 4:30 p.m. on April 3, 2000. For other details, you may call Ms. Sharp at (225) 765-0244.

A copy of the SIP may be viewed at the Environmental Planning Division from 8 a.m. until 4:30 p.m., Monday through Friday (excluding holidays) at either 7290 Bluebonnet, Fifth Floor, Baton Rouge, LA, or at the Northeast Regional Office located at 804 North Thirty-first Street, Suite D, Monroe, LA.

James H. Brent, Ph.D.
Assistant Secretary

0002#105

POTPOURRI

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

Revision to the Lafayette Parish Redesignation Plan

Under the authority of the Environmental Quality Act, R.S. 30:1051, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that a revision to the State Implementation Plan (SIP) has been initiated. The Contingency Plan is being revised to identify that the triggering event that will cause the implementation of a contingency measure will be an actual monitored ozone violation of the NAAQS as defined in 40 CFR 50.9 and determined not to be attributable to transport.

The public comment period begins on February 20, 2000, and ends at 4:30 p.m. on April 3, 2000. A public hearing will be held at 1:30 p.m., March 27, 2000, on the second floor of the Trotter Building, 7290 Bluebonnet, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed SIP. Should individuals with a disability need an accommodation in order to participate, contact Annette Sharp at the address or phone number given below. Written comments may also be submitted at the time of the public hearing or sent to Ms. Annette Sharp, Environmental Planning Division, Box 82178, Baton Rouge,

LA 70884-2178. Receipt of written comments must be no later than 4:30 p.m. on April 3, 2000. For other details, you may call Ms. Sharp at (225) 765-0244.

A copy of the SIP may be viewed at the Environmental Planning Division from 8 a.m. until 4:30 p.m., Monday through Friday (excluding holidays) at either 7290 Bluebonnet, Fifth Floor, Baton Rouge, LA, or at the Acadiana Regional Office located at 100 Asma Boulevard, Suite 151, Lafayette, LA.

James H. Brent, Ph.D.
Assistant Secretary

0002#106

POTPOURRI

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

Revision to the Orleans Consolidated Metropolitan Statistical Area (CMSA) Redesignation Plan

Under the authority of the Environmental Quality Act, R.S. 30:1051, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that a revision to the State Implementation Plan (SIP) has been initiated. The Contingency Plan is being revised to identify that the triggering event that will cause the implementation of a contingency measure will be an actual monitored ozone violation of the NAAQS as defined in 40 CFR 50.9 and determined not to be attributable to transport.

The public comment period begins on February 20, 2000, and ends at 4:30 p.m. on April 3, 2000. A public hearing will be held at 1:30 p.m., March 27, 2000, on the second floor of the Trotter Building, 7290 Bluebonnet, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed SIP. Should individuals with a disability need an accommodation in order to participate, contact Annette Sharp at the address or phone number given below. Written comments may also be submitted at the time of the public hearing or sent to Ms. Annette Sharp, Environmental Planning Division, Box 82178, Baton Rouge, LA 70884-2178. Receipt of written comments must be no later than 4:30 p.m. on April 3, 2000. For other details, you may call Ms. Sharp at (225) 765-0244.

A copy of the SIP may be viewed at the Environmental Planning Division from 8 a.m. until 4:30 p.m., Monday through Friday (excluding holidays) at either 7290 Bluebonnet, Fifth Floor, Baton Rouge, LA, or at the Southeast Regional Office located at 3501 Chateau Boulevard, West Wing, Kenner, LA.

James H. Brent, Ph.D.
Assistant Secretary

0002#107

POTPOURRI

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

Revision to the St. Mary Parish Redesignation Plan

Under the authority of the Environmental Quality Act, R.S. 30:1051, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that a revision to the State Implementation Plan (SIP) has been initiated. The Contingency Plan is being revised to identify that the triggering event that will cause the implementation of a contingency measure will be an actual monitored ozone violation of the NAAQS as defined in 40 CFR 50.9 and determined not to be attributable to transport.

The public comment period begins on February 20, 2000, and ends at 4:30 p.m. on April 3, 2000. A public hearing will be held at 1:30 p.m., March 27, 2000, on the second floor of the Trotter Building, 7290 Bluebonnet, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed SIP. Should individuals with a disability need an accommodation in order to participate, contact Annette Sharp at the address or phone number given below. Written comments may also be submitted at the time of the public hearing or sent to Ms. Annette Sharp, Environmental Planning Division, Box 82178, Baton Rouge, LA 70884-2178. Receipt of written comments must be no later than 4:30 p.m. on April 3, 2000. For other details, you may call Ms. Sharp at (225) 765-0244.

A copy of the SIP may be viewed at the Environmental Planning Division from 8 a.m. until 4:30 p.m., Monday through Friday (excluding holidays) at either 7290 Bluebonnet, Fifth Floor, Baton Rouge, LA, or at the Acadiana Regional Office located at 100 Asma Boulevard, Suite 151, Lafayette, LA.

James H. Brent, Ph.D.
Assistant Secretary

0002#108

POTPOURRI

Department of Health and Hospitals Office of Public Health Health Committee of the Louisiana Oyster Task Force

Official Posting Sites Update for Molluscan Shellfish Growing Areas

The Department of Health and Hospitals is responsible for maintaining a current classification of all actual or potential molluscan shellfish growing waters with respect to their suitability for harvest. Classification of these molluscan shellfish growing waters are in accord with the guidelines of

the National Shellfish Sanitation Program. The system of individual harvester notification used in the mid 1980's was replaced with a system of public viewing sites which were selected because of site location, frequency of visits, and the willingness of the site owner to post large maps on the wall. The location of these "Official Posting Sites" was published in the *Louisiana Register* in July, 1987. This system of posting sites allows for the viewing of large scale maps with latitude and longitude noted for key areas. This program element also allows for a public forum for public discussion prior to the lines of growing area classification becoming official. In addition, the harvesters are reminded annually of such a system by receiving a pamphlet (mandated by the National Shellfish Sanitation Program). These lines of classifications denote open, closed, and conditionally managed harvest areas. Harvest area classifications are depicted statewide by lines on maps distributed to the following posting sites. It is the responsibility of each person harvesting oysters to check for the latest information on the classification of shellfish growing areas prior to conducting any harvest activity. Enforcement of the classification lines is the responsibility of the Enforcement Division, Department of Wildlife and Fisheries.

The updated listing of official posting sites reads as follows:

La. State Marine Extension Service
8201 W. Judge Perez Dr.
Chalmette, LA 70043

St. Bernard Parish Health Unit
2712 Palmisano Blvd.
Chalmette, LA 70043

PIP's Place
RT. 2 Box 610
St. Bernard, LA 70085

Campo's Marina
RT. 1 Box 876
Delacroix, LA 70085

La. Dept. of Wildlife and Fisheries
Office of Marine Fisheries
Coastal Study Area 1
52282 U.S. Highway 90
Slidell, LA 70461

Plaquemines Parish Health Department
3706 Main St.
Belle Chasse, LA 70037

Plaquemines Parish Courthouse
District Attorney Office
P.O. Box 61
Point A La Hache, LA 70082

La. State Marine Extension Service
70163 Hwy. 39, Suite 201
Braithwaite, LA 70040

La. Dept. of Wildlife and Fisheries
Enforcement Division
P.O. Box 98000
Baton Rouge, LA 70898-9000

Orleans Parish Health Department
Tidewater Place
1440 Canal Street
Suite 1700
New Orleans, LA 70112

La. Cooperative Extension Service
1855 Ames Blvd.
Marrero, LA 70072

Jefferson Parish Health Unit
111 North Causeway Blvd.
Metairie, LA 70001

La. Dept of Wildlife and Fisheries
New Iberia Field Office
2415 Darnall Rd.
New Iberia, LA 70560

La. Dept of Wildlife and Fisheries
Lake Charles District
1213 North Lakeshore Dr.
Lake Charles, LA 70601

La. State Marine Extension Service
Lafourche Port Commission Office
5415 Main St.
Galliano, LA 70354

Lafourche Parish Health Unit
2535 Veterans Blvd.
Thibodaux, LA 70301

Lockport Civic Complex
Town Hall
710 Church Street
Lockport, LA 70374

La. Dept of Wildlife and Fisheries
Bourg Field Office
P.O. Box 189
Bourg, LA 70343

La. State Cooperative Extension Service
511 Roussell
Houma, LA 70360

Wilson's Oysters, Inc.
1981 South Van Ave
Houma, LA 70363

Motivated Seafood
P.O. Box 3916
Houma, LA 70361

Terrebonne Parish Health Unit
600 Polk St.
Houma, LA 70360

Morgan City Mayor's Office
Town Hall
P.O. Box 1218
Morgan City, LA 70381

Delacroix Island Fire Station
Engine # 9 C/O Fire Chief
8201 W. Judge Perez Dr.
Chalmette, LA 70043

Frank Campo's Marina
RT. 1 Box 674
Shell Beach, LA 70085

Dudenhefer's
4618 Hopedale
St. Bernard, LA 70085

Delta Marina
P.O. Box 445
Empire, LA 70050

Eddie's Oyster House
Box 301
Port Sulphur, LA 70083

Happy Jack Marina
RT. 1 Box 5
Port Sulphur, LA 70083

Beshel's Marina
Box 100
Point A La Hache, LA 70082

Cheremie's Marina
Box 639
Grand Isle, LA 70358

Collins' Seafood
P.O. Box 117
Grand Isle, LA 70358

Shamrock Seafood
4328 Hwy. 1
Raceland, LA 70394

La. Dept. Of Environmental Quality
Bayou Lafourche Regional Office
104 Locaco Dr., Suite 2
Raceland, LA 70394

Dularge Sporting Goods
P.O. Box 3855
Houma, LA 70360

Marie's Fisheries

208 Howard Ave.
Houma, LA 70360

Dularge Volunteer Fire Dept.
Box 92-F Falgout Canal Rd.
Theriot, LA 70397

Dulac Volunteer Fire Dept
5270 Grand Caillou Rd., Hwy. 57
Houma, LA 70363

Terrebonne Parish Courthouse
District Attorney Office
400 East Main St.
Houma, LA 70360

Iberia Parish Health Unit
Courthouse Annex
121 West Pershing St
New Iberia, LA 70560

Calcasieu Parish Health Unit
P.O. Box 3169
Lake Charles, LA 70602

St. Mary Parish Health Unit
1113 Weber St.
Franklin, LA 70538

Vermilion Parish Health Unit
401 South St. Charles Street
Abbeville, LA 70510

Office of Public Health
Molluscan Shellfish Program
210 State Street
New Orleans, LA 70118

Office of Public Health
Molluscan Shellfish Program
6867 Blue Bonnet Blvd.
Baton Rouge, LA 70810

La. Dept of Wildlife and Fisheries
Point Au Chein Management
1197 Highway 665
Montegut, LA, 70377

Madison Seafood Co.
Box 266
Montegut, LA 70377

U.S. Food and Drug Administration
Attn. Seafood Specialist
5353 Essen Lane
Baton Rouge, LA 70809

St. Bernard Sheriff's Office
P.O. Box 168
Chalmette, LA 70044

Plaquemines Parish Sheriff's Office
P. O. Box 86
Point A La Hache, LA 70082

Empire Shipyard
284 Rose Marie Dr.
Empire, LA 70050

Point A Chen Supermarket
638 Hwy. 665
Montegut, LA 70377

State of Mississippi
Dept. of Wildlife and Fisheries
2620 Beach Blvd.
Biloxi, MS 39551

State of Mississippi
Dept. of Wildlife and Fisheries
1141 Bayview Ave. #101
Biloxi, MS 39530-1601

U.S. Department of Agriculture
Services Agency
429 Airline Hwy., Suite K
Laplace, LA 70068

Cameron Parish Health Unit
107 Recreation Center Lane
P. O. Box 1430
Cameron, LA 70631

Plaquemines Parish Water Quality Laboratory
138 Edna Lafrance Road
Braithwaite, LA 70040

La. Dept of Wildlife and Fisheries
Seafood Division
1600 Canal Street
New Orleans, LA 70112

David W. Hood
Secretary

0002#088

POTPOURRI

Department of Health and Hospitals Office of Public Health

Notice of Hearing

The Department of Health and Hospitals, Office of Public Health, will hold another public hearing to receive input from the public on the Louisiana Preventive Health and Health Services Block Grant as administered annually by the agency. The scheduled public hearing will take place on February 29, 2000 beginning at 9:00 a.m. in Room 511 at

325 Loyola Avenue, New Orleans, LA. Copies of the grant may be obtained from Larry Fox, Division of Health Protection and Promotion, Office of Public Health, 325 Loyola Avenue, New Orleans, LA. You may also contact Mr. Fox by telephone at (504) 680 - 9463 for additional information.

David W. Hood
Secretary

0002#096

POTPOURRI

Department of Insurance Office of the Commissioner

Second Public Hearing of Regulation 70 Replacement of Life Insurance and Annuities (LAC 37:XIII.Chapter 89)

Title 37 INSURANCE

Part XIII. Regulations

Chapter 89. Regulation 70—Replacement of Life Insurance and Annuities

NOTE: The text of this proposed rule may be viewed in its entirety in the December 1999 edition of the *Louisiana Register*.

The Department of Insurance held the first public hearing on January 26, 2000, as indicated in its Notice of Intent published on page 2581 of the December 1999 *Louisiana Register*. The Department received commentary, oral and written, supporting the incorporation of language provided by the American Counsel of Life Insurance (ACLI). A second hearing is scheduled for March 24, 2000, 10 a.m., and will be held in the Plaza Hearing Room at the Department of Insurance located at 950 N. 5th Street, Baton Rouge, LA 70802. This will allow the public an opportunity to express their views concerning the proposed ACLI changes.

Interested persons may submit oral or written comments to Barry E. Ward, Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, (225) 219-4750. Comments will be accepted through the close of business at 4:30 p.m. on March 24, 2000.

James H. "Jim" Brown
Commissioner

0002#089

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, La. R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	Well Name	Well Number	Serial Number
The Cornell Corporation	Anse La Butte	A Voorhies A	1-D	062211
The Cornell Corporation	Anse La Butte	A Voorhies A	001	060591
Damson Exploration Corporation	Wildcat	Lucile S James	001	125875
W. A. Lusk	West Delhi	Arthur Thomas	001	181329
W. A. Lusk	Buckhorn	MASS SU 178; Fisher Lbr Corp	B4	084213
W. A. Lusk	Buckhorn	MASS SU 176; Fisher Lbr Corp	B6	094159
W. A. Lusk	Holly Ridge	Penrod-Jurden SWD	005	141537
W. A. Lusk	Holly Ridge	BL TUSC RB SUB; Penrod-Jurden B	001	139101
W. A. Lusk	Delhi	Gilliland	001	166606
W. A. Lusk	Delhi	Chandler	002	180840
W. A. Lusk	Delhi	Gilliland	002	183560
W. A. Lusk	Delhi	Munholland	001	187417
W. A. Lusk	Delhi	Wilks	001	203923
W. A. Lusk	West Delhi	Arthur Thomas	001	181329
R. A. Nobile	Wildcat	A B Learned et al B	001	170838
O'Hara Petroleum Exploration Company	Bellevue	Wickett	005	157409
Power Reserves, Inc.	Big Lake	LD RA SUG; C J Manning	002	069300
Mr. Sam Sklar	Tullos Urania	Louis Tullos	005	039648
Tiger E & P, Inc.	Wildcat	Land-Gordon Heirs et al	001	222735
Trident Production, L.L.C.	Alabama Bend	Odie Waites	003	106883
Trident Production, L.L.C.	Alabama Bend	Gilbert	001	046600
Trident Production, L.L.C.	Alabama Bend	Green	002	094183
Trident Production, L.L.C.	Alabama Bend	Green	003	125798
Trident Production, L.L.C.	Dixie	Adger	002	175835
Trident Production, L.L.C.	Dixie	Adger	004	176822
Trident Production, L.L.C.	Dixie	Adger	012	175366
Trident Production, L.L.C.	Dixie	Adger	015	176881
Trident Production, L.L.C.	Dixie	Adger	017	176905
Trident Production,	Dixie	Adger	003	176801

L.L.C.				
Trident Production, L.L.C.	Dixie	Adger	009	178570
Trident Production, L.L.C.	Dixie	Adger	013	176904
Trident Production, L.L.C.	Dixie	Adger	016	176882
Trident Production, L.L.C.	Dixie	Adger	019	191665
Trident Production, L.L.C.	Dixie	Adger	020	199952
Trident Production, L.L.C.	Dixie	Adger	021	200181
Trident Production, L.L.C.	Dixie	Adger	022	201298
Trident Production, L.L.C.	Dixie	Adger	023	206778
Trident Production, L.L.C.	Dixie	Adger	018	190972
Trident Production, L.L.C.	Caddo Pine Island	Caddo Levee Board C	001	202604
Trident Production, L.L.C.	Caddo Pine Island	Caddo Levee Board B	002	203941
Trident Production, L.L.C.	Caddo Pine Island	Huckabay et al	002	200600
Trident Production, L.L.C.	Longwood	Mitchell Williams A	001	182767
Trident Production, L.L.C.	Longwood	Mitchell Williams A	002	182768
Trident Production, L.L.C.	Longwood	Mitchell Williams A	003	182769
Trident Production, L.L.C.	Longwood	Mitchell Williams A	004	182770
Trident Production, L.L.C.	Longwood	Mitchell Williams A	005	182771
Trident Production, L.L.C.	Caddo Pine Island	PXY RB SUC; H H Tyson	001	187967
Trident Production, L.L.C.	Caddo Pine Island	PXY RB SUA; Lee Johnson Est A	001	187163
Trident Production, L.L.C.	Caddo Pine Island	PXY RB SUA; L Johnson Estate A	003	188281
Trident Production, L.L.C.	Caddo Pine Island	PXY RB SUD; Gilliam et al	001	188882
Trident Production, L.L.C.	Caddo Pine island	Levy	001	017446
Trident Production, L.L.C.	Caddo Pine Island	Levy	002	017586
Trident Production, L.L.C.	Caddo Pine Island	Levy	003	017824
Trident	Caddo Pine	Levy	004	018216

POTPOURRI

**Department of Social Services
Office of Community Services**

2000 Louisiana Emergency Shelter Grants Program

The Department of Social Services (DSS) anticipates the availability of \$1,541,446 in grant funds for distribution to applicant units of local government under the 2000 state Emergency Shelter Grants Program (ESGP). Program funds are allocated to the state by the U.S. Department of Housing and Urban Development (HUD) through authorization by the Stewart B. McKinney Homeless Assistance Act, as amended. Funding available under the Emergency Shelter Grants Program is dedicated for the rehabilitation, renovation or conversion of buildings for use as emergency shelters for the homeless, and for payment of certain operating costs and social services expenses in connection with emergency shelter for the homeless. The program also allows use of funding in homeless prevention activities as an adjunct to other eligible activities. As specified under current state ESGP policies, eligible applicants are limited to units of general local government for all parish jurisdictions and those municipal or city governmental units for jurisdictions with a minimum population of 10,000 according to recent census figures. Recipient units of local government may make all or part of grant amounts available to private nonprofit organizations for use in eligible activities.

Application packages for the state ESG Program shall be issued by mail to the chief elected official of each qualifying unit of general local government. The application package can be viewed on the Internet at the following website: <http://www.dss.state.la.us/html/rfps.html>. In order to be considered for funding, **applications must be received by DSS/Office of Community Services by 4:00 p.m., Friday, April 7, 2000.**

Nonprofit organizations in qualifying jurisdictions which are interested in developing a project proposal for inclusion in an ESGP funding application should contact their respective unit of local government to advise of their interest. To be eligible for funding participation, a private nonprofit organization as defined by ESGP regulations must be one which:

1. is exempt from taxation under Subtitle A of the Internal Revenue Code;
2. has an accounting system and a voluntary board; and
3. practices nondiscrimination in the provision of assistance.

The state DSS will continue use of a geographic allocation formula in the distribution of the state's ESG funding to ensure that each region of the state is allotted a specified minimum of state ESG grant assistance for eligible ESGP projects. Regional allocations for the state's 2000 ESG program have been formulated based on factors for low income populations in the parishes of each region according to U.S. Census Bureau data. Within each region, grant distribution shall be conducted through a competitive grant award process.

The following table lists the allocation factors and amounts for each region:

Production, L.L.C.				
Trident Production, L.L.C.	Caddo Pine Island	Resweber	001	023510
Trident Production, L.L.C.	Caddo Pine Island	Goodwill Fee	001	023513
Trident Production, L.L.C.	Caddo Pine Island	Harry E Hill	001	033264
Trident Production, L.L.C.	Caddo Pine Island	Oil City Land	001	035627
Trident Production, L.L.C.	Caddo Pine Island	Oil City Land	003	036757
Trident Production, L.L.C.	Caddo Pine Island	Hardy	001	047334
Trident Production, L.L.C.	Caddo Pine Island	Oil City Land	004	054870
Trident Production, L.L.C.	Caddo Pine Island	Watts	001	060846
Trident Production, L.L.C.	Caddo Pine Island	Mathieu B	001	066881
Trident Production, L.L.C.	Caddo Pine Island	Hardy	002	147508
Trident Production, L.L.C.	Caddo Pine Island	Lynn B	001	168927
Trident Production, L.L.C.	Caddo Pine Island	Lynn B	002	174265
Trident Production, L.L.C.	Caddo Pine Island	Etchison	003	990289
Trident Production, L.L.C.	Dixie	Adger	006	053091
Trident Production, L.L.C.	Dixie	Adger	007	053360
Trident Production, L.L.C.	Dixie	Adger	024	056016
Trident Production, L.L.C.	Dixie	Adger	025	056534
Trident Production, L.L.C.	Dixie	Adger	026	109280
Trident Production, L.L.C.	Dixie	Adger	001	175834
Trident Production, L.L.C.	Dixie	Adger	014	176880
Trident Production, L.L.C.	Dixie	Adger	005	177462
Trident Production, L.L.C.	Dixie	Adger	010	188915
Trident Production, L.L.C.	Dixie	Adger	027	217450

Philip N. Asprodites
Commissioner

Region	Factor	Allocation
Region I New Orleans	.1572303	242,362
Region II Baton Rouge	.1120504	172,720
Region III Thibodaux	.0698830	107,721
Region IV Lafayette	.1522065	234,618
Region V Lake Charles	.0531705	81,959
Region VI Alexandria	.0764176	117,794
Region VII Shreveport	.1248105	192,389
Region VIII Monroe	.0985996	151,986
Region IX Northshore	.0746534	115,074
Region X Jefferson	.0809781	124,823

Regional funding amounts for which applications are not received shall be subject to statewide competitive award to applicants from other regions and/or shall be reallocated among other regions in accordance with formulations consistent with the above factors.

Grant awards shall be for a minimum of \$10,000. Applicable grant maximums are as follows.

1. Individual grant awards to applicant jurisdictions of less than 49,000 population shall not exceed \$50,000.

2. For a jurisdiction of over 49,000 population, the maximum grant award shall not exceed the ESGP allocation for that jurisdiction's respective region.

Grant specifications, minimum and maximum awards may be revised at DSS's discretion in consideration of individual applicant's needs, total program funding requests, and available funding. DSS reserves the right to negotiate the final grant amounts, component projects, and local match with all applicants to ensure judicious use of program funds.

Program applications must meet state ESGP requirements and must demonstrate the means to assure compliance if the proposal is selected for funding. If, in the determination of DSS, an application fails to meet program purposes and standards, even if such application is the only eligible proposal submitted from a region or subregion, such application may be rejected *in toto*, or the proposed project(s) may be subject to alterations as deemed necessary by DSS to meet appropriate program standards.

Proposals accepted for review will be rated on a comparative basis based on information provided in grant applications. Award of grant amounts between competing applicants and/or proposed projects will be based upon the following selection criteria:

Nature and extent of unmet need for emergency shelter, transitional housing and supportive services in the applicant's jurisdiction.	40 points
The extent to which proposed activities will address needs for shelter and assistance and/or complete the development of a comprehensive system of services which will provide a continuum of care to assist homeless persons to achieve independent living.	30 points
The ability of the applicant to carry out the proposed activities promptly.	15 points
Coordination of the proposed project(s) with available community resources, so as to be able to match the needs of homeless persons with appropriate supportive services and assistance.	15 points

ESGP recipients are required to provide matching funds (including in-kind contributions) in an amount at least equal to its ESGP funding unless a jurisdiction has been granted an

exemption in accordance with program provisions. The value of donated materials and buildings, voluntary activities and other in-kind contributions may be included with "hard cash" amounts in the calculation of matching funds. A local government grantee may comply with this requirement by providing the matching funds itself, or through provision by nonprofit recipients.

A recipient local government may at its option elect to use up to 2.439 percent of grant funding for costs directly related to administering grant assistance, or may allocate all grant amounts for eligible program activities. Program rules do not allow the use of ESGP funds for administrative costs of nonprofit subgrantees.

Availability of ESGP funding is subject to HUD's approval of the state's FY 2000 Consolidated Annual Action Plan for Housing and Community Development Programs. No expenditure authority or funding obligations shall be implied based on the information in this notice of funds availability.

Inquiries and comments regarding the 2000 Louisiana Emergency Shelter Grants Program may be submitted in writing to the Office of Community Services, Management and Finance Division, Box 3318, Baton Rouge, LA 70821, or telephone (225) 342-6640.

J. Renea Austin-Duffin
Secretary

0002#103

POTPOURRI

Department of Social Services Office of Community Services

2000-2001 Weatherization Assistance Program Public Hearing

The Department of Social Services, Office of Community Services is submitting a State Plan to the U.S. Department of Energy (DOE) for funding of the 2000-2001 Weatherization Assistance Program. Pursuant to federal regulations (10 CFR 440), a public hearing is required prior to DOE's approval of the plan.

The Weatherization Assistance Program provides services to low-income households, and in particular, households in which elderly, handicapped and/or children reside. The purposes of weatherization activities are:

1. to reduce home heating and cooling costs of low income households;
2. to provide a more comfortable and safe home environment for low-income residents; and
3. to help reduce the consumption of fossil fuels.

The public hearing is scheduled for Thursday, March 9, 2000, at 1:30 P.M. in Baton Rouge, LA, at 333 Laurel Street, Room 652 (sixth floor training room). Louisiana's grant for the 2000-2001 program year is \$1,026,468. Any additional Department of Energy funds which may become available during the 2000-2001 program year will be expended according to the approved state plan.

Copies of the plan can be obtained prior to the hearing by contacting the Department of Social Services, Office of

Community Services, Energy Assistance Section at (225) 342-2288 or by writing to P.O. Box 3318, Baton Rouge, LA 70821. Written comments will be accepted through March 17, 2000.

0002#102

J. Renea Austin-Duffin
Secretary

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